John Campbell's Grim, Scary Tales

CALIFORNIA ★ POLITICAL
REVIEW
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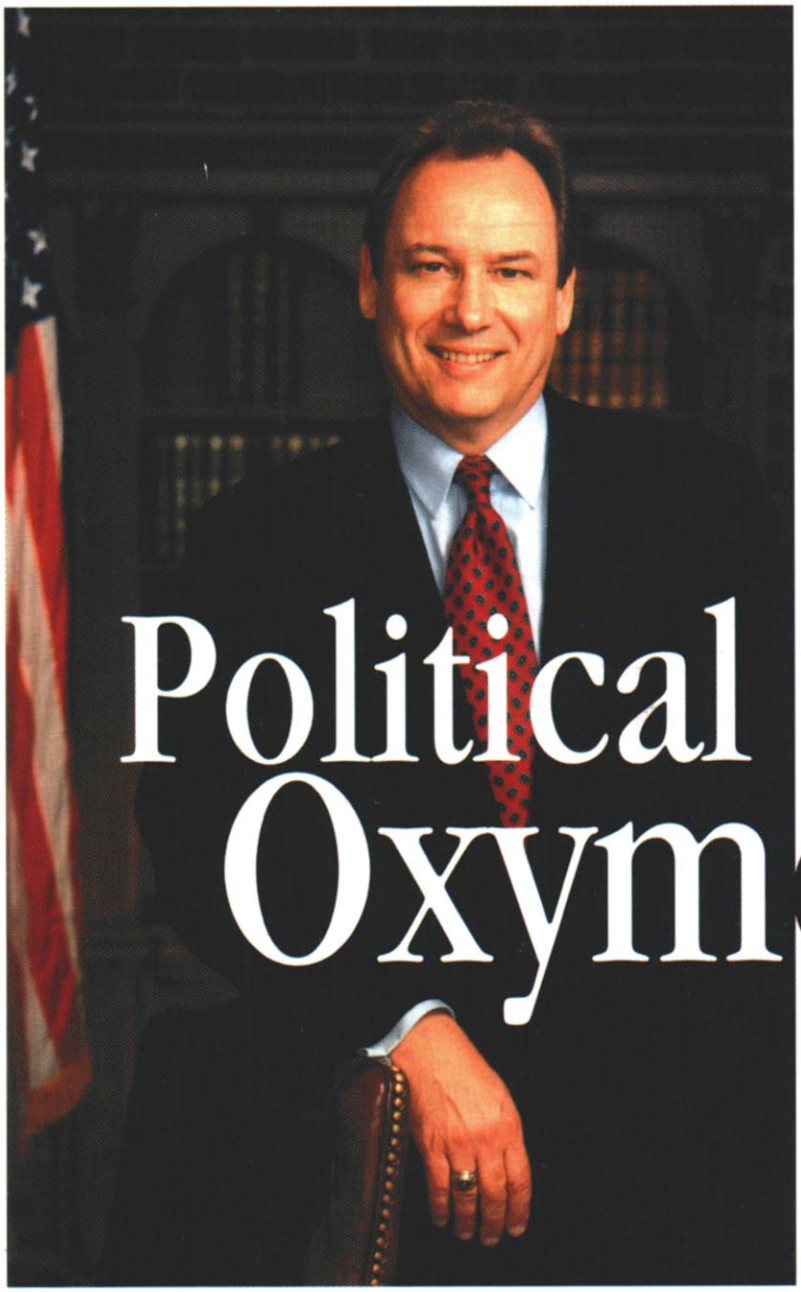
Fall Guys
San Francisco vs. its hotels
by M. David Stirling

O Joy!
Occasional Verse
by Joy Skilmer



Political Oxymoron

Bill Jones' unorthodox road to the 2002 governor's race.

by John Kurzweil

Endangered Way of Life
Anne Hayes examines a needless crisis in Klamath

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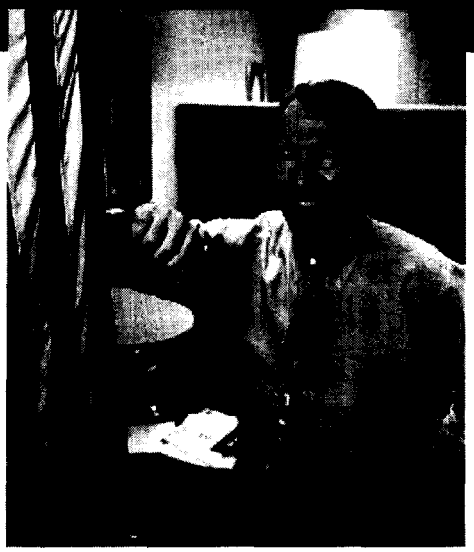
A Champion for California Taxpayers

BILL LEONARD FOR BOARD OF EQUALIZATION



After a distinguished career in the State Legislature, Bill Leonard has agreed to run for the Board of Equalization. That's good news for California taxpayers.

Bill will bring to the board a reputation for integrity and decency unheard of in modern politics. His hometown newspaper had this to say about Bill Leonard:

> ***"Leonard possesses qualities that, sadly, are not too often seen in the Legislature nowadays: a very strong sense of integrity and (to use a term that may seem old fashioned but describes him well) a gentlemanly approach to public service."***
>
> *(The Sun, 6-22-1997)*

Bill Leonard was first elected to the State Assembly in 1978 — the same year Californians made history by passing Prop. 13 to lower property taxes.

In the Legislature, Bill became a champion for taxpayers, effectively pushing for smaller and more efficient government and less regulation over our daily lives. He fought hard...and successfully...for lower taxes on families and small businesses and helped enact the California Taxpayer's Bill of Rights.

Bill Leonard will make sure every taxpayer, no matter how small his or her tax bill, is treated in a fair, even-handed and respectful manner.

★★ Bill ★★
Leonard
BOARD OF EQUALIZATION
"Keep Taxes Low"

Please join us in supporting conservative Republican Bill Leonard for Board of Equalization

Congressman John T. Doolittle
Congressman Ed Royce
Congressman Dana Rohrabacher
Congressman George Radanovich
Congressman Chris Cox
Congressman Wally Herger

Congressman Buck McKeon
Assemblyman Roy Ashburn
Assemblyman Sam Aanestad
Assemblyman Bill Campbell
Assemblyman John Campbell
Assemblyman Dennis Hollingsworth

Assemblyman Jay LaSuer
Assemblyman Tim Leslie
Assemblyman Dennis Mountjoy
Assemblyman Tony Strickland
Assemblyman Mark Wyland
**partial list*

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CALIFORNIA★POLITICAL
REVIEW

JANUARY/FEBRUARY 2002 • VOLUME 13 • NUMBER 1

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REVIEW

A PUBLICATION OF THE
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JOHN KURZWEIL
EDITOR & PUBLISHER

JAN EDWARDS
MANAGING EDITOR

CONTRIBUTING EDITORS
DAN BRENNAN
LEON MCKINNEY • *WASHINGTON LETTER*
MARK S. PULLIAM • *LEGAL ISSUES CORRESPONDENT*
WILLIAM R. ALLEN • *ECONOMICS CORRESPONDENT*
SAM PAREDES • *SECOND AMENDMENT CORRESPONDENT*
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CORRESPONDENCE

The Parsky Plan

Your analysis ("Reorganization — The Parsky Plan," John Kurzweil, *CPR*, Sept./Oct., 2001) is the best I've seen on the California Republican Party's current condition.

John Herrington
Walnut Creek

Regarding "Reorganization — The Parsky Plan," I served on the California Republican Party board of directors from 1995 to 2001, the last two years as treasurer. As such, I had a detailed, firsthand look at the way the Party spent its political funds and executed its political plan for three straight losing cycles. First of all, the section of your article titled "Who Lost 2000?" laid out in accurate detail the real culprits in the 2000 campaign. The board of directors of the Party was handed a recycled political plan by the RNC and legislative leadership, frighteningly similar to the failed 1998 and 1996 plans, to approve. It did so without dissent. The reason is pretty clear: those who raise the money have first right to say how it is spent, and nobody on our board, except for Chairman McGraw and Assistant Treasurer Doug Boyd, raised a dime for the Party from 1999 to 2001. In fact, some of McGraw's most vocal critics were also some of the most worthless board members I ever served with.

What happens in Party politics, as you so eloquently outlined, is that the chairman gets blamed for losses while the true architects of a failed strategy get rewarded with *de facto* control of the Party, as is the case now. Many of the remaining conservatives serving on the board long ago "sold out" to the president's California surrogates in order to keep their standing on the board. I myself chose to focus my efforts on maintaining our gains in the Central San Joaquin Valley and did not seek re-election.

Judging from the Party's current financial condition, the coming meaningless battle over the Platform, increased control of Party operations by large donors and other do-nothing moderates, and a directionless, messageless operation, I take pleasure in my decision every day. Make no mistake about it, the Party will be "reformed." We will have reams and reams of operating manuals, procedures, and mission statements to look at. Last time I checked, however, none of those initiatives have ever proven to move voters to the polls.

Michael Der Manouel
Fresno
CRP Treasurer 1999-2001
CRP Vice Chairman Central 1995-99
Fresno County GOP Chairman 1993

October 31, 2001

Mr. John Kurzweil
California Political Review

Dear Mr. Kurzweil:

I will not be considering a trial subscription to your publication. You spent numerous pages trying to explain why the Republican Party is in the state it is in. However, nowhere in your publication did you accept any responsibility for its current state. I find a publication which is committed to personal attacks on committed Republicans to be one of the major reasons the Party is in the state it is in. Only when we realize that it is the Dem-

(Please turn to page 29)

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SACRAMENTO SPECTATOR

While the California Republican Party launched a New Year's radio ad attacking His Royal Grayness for enacting a budget last summer that raises the sales tax $1.2 billion, your *Spectator* thought it's a good time to check up on the four traitors in the GOP Assembly Caucus that supplied the governor the votes to boost taxes.

Anthony Pescetti has announced his retirement and will not seek a final term. Insiders say that Pescetti's consultant, Jim Nygren, advised his client that his vote for the tax-raising budget was a silver bullet with his name on it. Pescetti was also badly stung by an editorial cartoon that appeared in his hometown *Sacramento Bee* depicting him on a street corner in fishnet stockings while Assembly Speaker Bob Hertzberg cruised by in a sedan waving money out the window. Some staffers had dubbed him Anthony "Fishnetty." Cruel yet appropriate. One down.

Dick Dickerson is in a Battle Royal with Assembly colleague Sam Aanestad for the GOP nomination in the fourth state Senate District. Most current Senate GOP members are backing Aanestad, who was a loyalist during the budget war. Labor unions are planning heavy independent expenditures for Dickerson while the dentists are lining up for Aanestad. Dickerson's Waterloo? The *Spectator* thinks so. That would be two down.

Dave Kelley followed Pescetti into retirement instead of seeking another term, ending a legacy of bad budget votes from an otherwise conservative legislator. Three down.

And then there's Mike Briggs. Briggs is in a three-way battle for the newly-created 21st Congressional District. Briggs, who was the most unlikely member of the Weasels Four, is likely to be pounded in attack mail accurately depicting him as a tax increaser. Probably not the best way to be defined in a district that went for Bush, 60 to 39 percent. Four down? Good possibility.

The moral to the story? Don't cross your GOP colleagues. You'd think they would have learned from Paul Horcher, Doris Allen, and Brian Setencich. (By the way, Setencich's conviction on tax evasion charges was recently upheld by an appellate court).

Dick Riordan's campaign for governor still lacks a trustworthy presence of GOP consultants and campaign types. Former Howard Jarvis Taxpayer Association chief Joel Fox is on board as policy director, but he is a conservative caucus of one now that GOP consultant Wayne Johnson quietly left the Riordan effort late last year.

Finally, on a sad note, your *Spectator* extends condolences to Senator Bruce McPherson and his family. McPherson's son, Hunter, was gunned down in San Francisco during a robbery just before the holidays. McPherson, a liberal Republican, has held seats throughout his career that would likely otherwise be in the Democrat column. His votes may often frustrate his colleagues to his right (which would be all the Republicans and a few Democrats), but his friends in the Capitol are many because of his kindness and sincerity.

McPherson is the lone GOP candidate for Lieutenant Governor and he reportedly will resume his campaign for that office later this year despite this tragedy. Bend a knee and say a prayer for the senator and his family.

—A. P. C.

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Field of Greed

Whatever else you think of them, lawyers respond to economic incentives.

MARK S. PULLIAM

If you build it, they will come. This refrain, paraphrased from the film *Field of Dreams* could describe the state of our modern civil justice system. In the movie starring Kevin Costner, the phrase referred to a whimsical baseball diamond built in the middle of an Iowa cornfield, and it symbolized a farmer's devotion to the game. Sure enough, the field attracted not only spectators but players, too. The creation of infrastructure produced certain behavioral consequences. In real life, this phenomenon occurs all the time, as a result of economics rather than fantasy.

Incentives influence behavior. If a cynic were to examine the legislative, judicial, and administrative changes that have been made to our legal system in the past 50 years, and tried to distill the animating philosophy they share — their common purpose — he would be justified in concluding that the overarching principle seems to be the promotion of litigation and the proliferation of lawyers. It is as if the lawyers got together and decided to fix the rules of the game in such a way as to benefit themselves at the expense of everyone else. The laws governing attorneys' fees are no exception. If a society creates institutionalized rewards for lawyers bringing lawsuits, one can expect both the number of lawyers and lawsuits to increase. And they have.

Prior to relatively recent tinkering, the United States embraced a consistent approach to attorneys' fees — in litigation, each side was responsible for paying its own lawyers, win or lose. This approach is still referred to as the "American rule," although (as we shall see) exceptions have nearly swallowed the rule. In contrast to the American rule is the approach followed in most of the rest of the industrialized world: "loser pays." This method, often called the "English rule," requires the losing party in a lawsuit to pay (in addition to the damages caused by the culpable conduct) the attorneys' fees incurred by the prevailing party.

To illustrate the competing paradigms, assume that A sued B for an automobile collision, contending that B ran a red light and struck A, causing $10,000 in damage to A's car and $5,000 in medical bills. B denies liability, claiming that the light was green. A hires a lawyer to sue B. B hires another lawyer to defend himself. (Lesson number one of litigation: One lawyer can make work for two.) At trial, the jury believes A, and finds in A's favor in the amount of $15,000. Under the American rule, A would recover $15,000 from B, but would have to pay his own attorneys' fees. (B would also have to pay his own attorneys' fees, in addition to the $15,000 in damages to A.) Under the English rule, B would have to pay A the $15,000 in damages *plus* the amount of A's attorneys' fees as well as his own.

This brings us to the first conceptual complication — contingency fees. Unique among industrialized nations, the United States authorizes "contingent fee" arrangements between attorneys and their clients, which pay the lawyer a percentage of the client's recovery, rather than an hourly fee. Other countries prohibit such arrangements (and so did we, before the lawyers took over) as unethical investments by lawyers in the outcomes of their clients' cases. In England (and the rest of the world, other than the United Sates), therefore, the lawyer representing A would have charged by the hour. If A's lawyer charged, say, $3,000, under the English rule A would be entitled to recover a total of $18,000 from B — $15,000 in damages and $3,000 in attorneys' fees. The objective is to make A "whole."

Mark S. Pulliam, California Political Review's *legal issues correspondent, is an attorney in private practice in San Diego.*

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THE FRONT LINE

The Good Guys Win Two

There is, we are told, no honor among thieves. Some of Riverside's more public spirited citizens evidently want the rule extended to include legislative candidates.

Ray Horspool, a conservative Republican candidate for the Riverside-area 64th Assembly District, was served on Christmas eve with legal papers notifying him of a hearing scheduled for the morning of December 27 on a complaint filed by a supporter of one of Mr. Horspool's GOP opponents. The complaint asked a court to remove Mr. Horspool's name from the March ballot on grounds he is not properly registered to vote at the address he indicated when he became a candidate.

It happens that this question of Mr. Horspool's residency had been raised and investigated not once but *twice* before by political opponents, both inquiries finding Mr. Horspool properly registered. But truth being no matter to Machiavellians, a shoddy trick was tried in hopes of depriving voters a chance to vote for Mr. Horspool.

Perhaps his opponent had noticed the nefarious maneuverings employed two years ago to cheat neighboring 65th AD voters of the services of conservative Republican Jan Leja, who won the 65th in 2000. Mrs. Leja's GOP primary rival, loser Russ Bogh, filed a criminal complaint over paperwork errors, later corrected, in Mrs. Leja's early campaign filings. Attorney General Bill Lockyer, eager to derail a promising conservative political career, threatened a felony prosecution that could have lost Mrs. Leja's husband his job, so Mrs. Leja resigned. Mr. Bogh, who then won a special election for the seat, is, it happens, a former Pete Wilson staffer — not that anyone should think Wilsonites tend to act dishonorably — perish the thought!

But whatever inspired Mr. Horspool's opponent, this time the dirty trick failed, thanks to Gary Kreep's Escondido-based United States Justice Foundation. "Due to the Christmas holiday," a USJF news release reported, "and to the way the lawsuit was served, Mr. Horspool was not able to seek legal help until December 26."

Waiting until Christmas Eve to serve the suit clearly seems intended to deprive Mr. Horspool a chance to prepare properly. As Mr. Kreep explained, "Tactics like this often mean the plaintiffs know they do not have a legitimate case and hope to take advantage of the defendant's inability to obtain legal help on an immediate basis." Perhaps unnecessarily, Mr. Kreep added that "this case is the type of game playing attorneys are infamous for."

Fortunately, Mr. Horspool could turn to Mr. Kreep's organization, a non-profit, conservative legal action foundation. Only eleven hours after being contacted by the defendant, USJF Staff Attorney Richard Ackerman appeared in Riverside County Superior Court and defeated what Mr. Kreep called "this improperly filed and improperly noticed legal attack." Mr. Kreep thanked California Secretary of State Bill Jones, "who filed legal pleadings in support of Mr. Horspool, and against this attempt to deprive him of his rights."

On another bright note, local Santa Barbarans turned back an SB County Board of Supervisors' censure of the Boy Scouts for holding politically incorrect thoughts. More than 23,000 signatures were gathered to throw out the censure, confronting the Board with the choice of dumping it themselves or seeing the issue on the ballot. The resolution's author was up for election on the same ballot that would have carried the initiative. Local organizers reported that the Board adopted it "to save themselves." Evil *is* defeated when good men do *something*.

CPR

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(After A pays his lawyers, he still has the entire $15,000 in compensation for his damages.) In America, A would probably have hired a contingent fee lawyer, with no obligation to pay unless A recovered money from B (or B's insurance company). In that event, A would have to tender to his lawyer between one-third and 40% of the amount recovered, plus the attorneys' expenses. Under the American rule, then, A would walk away from the auto accident lawsuit with $10,000 (two-thirds of $15,000), and A's attorney would pocket $5,000 (one-third of $15,000).

ALREADY WE can see why plaintiffs' lawyers favor the contingent fee. First, as in this example, there will be many situations in which one-third or 40 percent of the amount recovered will exceed an hourly fee to achieve the same result. In other words, the lawyer gets more money, the client less. Second, by eliminating the front end cost of filing suit, which is a disincentive under the American rule, the contingent fee encourages litigants to pursue marginal lawsuits. (If the perceived likelihood of establishing B's liability in the hypothetical were 50 percent or less, A would probably not incur the unrecoverable cost of hiring a lawyer on an hourly basis to pursue a lawsuit, but might choose to do so on a contingent fee basis because A incurs no cost unless A prevails.) Lesson number two of litigation: Like any commodity, demand increases when cost is reduced. Lowering the cost of filing lawsuits will increase the number of lawsuits.

Now we come to the principal source of our present problem regarding out-of-control attorneys' fees. At two critical junctures, courts have taken wrong turns, leading the law into conceptual disarray and producing absurd, undesirable results.

Wrong Turn One: Asymmetrical Loser Pays

Several state and federal statutes enacted in recent decades, beginning mainly in the 1960s, modify the American rule, giving judges in particular types of cases the discretion to award attorneys' fees to the pre-

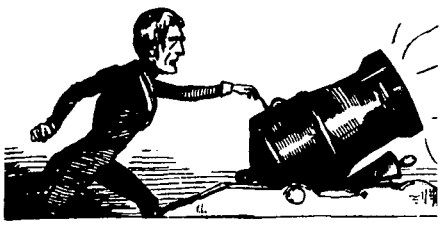
WHAT YOU HAVEN'T BEEN TOLD ABOUT GUN CONTROL

By SAM PAREDES

Legendary football coach Vince Lombardi once said, "winning isn't everything ... it's the *only* thing!" This may be a noble attitude for the gridiron, but for politics it is dangerous and foolish.

Don't get me wrong: I want to win, but "winning" at the expense of a Faustian deal with the Devil isn't really winning at all. You may have defeated your immediate adversaries, but you then find yourself allied with — actually, subservient to — Satan, who, arguably, is a problem worse even than Democrats. Unfortunately, some of California's conservative stalwarts have sold their *philosophical* souls, hoping to taste a gubernatorial victory. But when — if — they finish their euphoric Riordan victory lap, they will find themselves in the same difficulty that confronted Faust, themselves having helped install a devil in the governor's mansion.

Sound incendiary? Then please tell me how else to describe matters from the gun rights perspective. We have state legislators like Dick Ackerman, Roy Ashburn, Bill Campbell, and George Runner, and 16 congressmen including Dana Rohrabacher, David Dreier, Ed Royce, Buck McKeon, Chris Cox, Randy Cunningham, Duncan Hunter, and Darrell Issa, most of whom have a solid pro-gun record, endorsing Dick Riordan! As leaders of the pro-gun movement, we are being pushed into choosing between Democrat Gray Davis, the most anti-gun governor ever to serve in California, and an even more anti-gun Republican in Riordan. As mayor of Los Angeles, Riordan advocated door-to-door police searches to seize citizens' privately-owned firearms!



When one of these Congressmen was asked about endorsing a candidate who is anti-gun, pro-abortion, anti-family, pro-homosexual agenda, and even pro-Democrat, his response was "well, we have to run with somebody who can win in November." Wow! Perhaps it's time for a few new lines in our candidate questionnaire: "Are you willing to sell your soul for a political victory?" CPR

Sam Paredes is executive director of Gun Owners of California.

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vailing party – a move toward the English rule ("loser pays") in those types of cases. (This trend began with so-called "civil rights" legislation but has expanded to almost all laws providing for claims by individuals against business or governmental entities.) But courts, as I pointed out in a 1995 article in *Reason* magazine, have interpreted these "prevailing party" laws as a one-way street: losing defendants must pay attorneys' fees to prevailing plaintiffs, but a prevailing defendant cannot recover its fees unless the lawsuit was wholly frivolous, a finding litigation-friendly courts are loath to make. As a result, in our example, A could recover his attorneys' fees if he prevailed against B, but B would have to bear his own attorneys' fees whether or not he prevailed. "Heads I win, tails you lose" is what trial lawyers thrive on. One-sided loser pays is the worst of both worlds. It is a debasement of the English rule in that it provides no protection to defendants against unsuccessful lawsuits; and, unlike the American rule, which implicitly discourages litigation of marginal cases, it in fact encourages speculative lawsuits by assuring an upside in the event of success with no downside in the event of defeat. Moreover, it induces risk-averse defendants to settle even marginal or baseless cases because defendants — but not plaintiffs — face the potential "double whammy" of paying two sets of lawyers if they lose.

Wrong Turn Two: The 'Lodestar' Method

The usual approach for calculating prevailing party attorneys' fees is the judge-created "lodestar" method, a somewhat mystical-sounding procedure that simply means the winning attorneys' fee award is not based on the actual fee, whether contingent or hourly, agreed to by client and lawyer in the particular case in question. Instead, it is calculated according to fee levels typically paid in the legal profession for similar cases involving similar workloads, in the judges' opinion (from "lodestar": a star used as a point of reference, such as the North Star). The key factor, that is, is the amount of time spent by the lawyer, not how much the client paid or the amount of damages recovered. "Lodestar" creates an entitlement rewarding lawyers for all the hours they reasonably put in, multiplied by a reasonable hourly rate, regardless of whether the actual money amounts at issue in the case warrant any such award. That's how, as I reported last issue ("Some Realism About Activism," *CPR*, Nov./Dec. 2001), a jury could award a plaintiff $250,000 in damages, while the trial court awarded an additional $1 million in attorneys' fees (*Flannery v. Prentice*).

Remarkably, the courts' goal was to devise a fee-setting formula that would consistently, and predictably, generate sufficient attorneys' fees awards to provide incentives for lawyers to bring more lawsuits. (It worked.)

THIS IS quite a different goal from simply ensuring that prevailing plaintiffs are reimbursed (or are "made whole") for their out-of-pocket hourly or contingent attorneys' fees. The common sense approach of simply ordering the losing party to pay whatever fees the prevailing plaintiff incurred was rejected because it would not create an adequate windfall for plaintiffs' lawyers. By disconnecting the attorneys' fees recoverable by the lawyers from the circumstances of the client or the case, the courts further encouraged lawsuits for their own sake. Absent a "lodestar"-type fee-shifting rule, no client would pay a lawyer four times the amount

Tax My Fat

I thought I'd never see the day
They'd try to tax my fat away,
Pass laws that say what I can eat,
Not too much starch, not too much meat,
But lots of veggies, lots of fruit
And foods for which I give no hoot.
Fanatics say that fat's a sin,
You can't be good unless you're thin,
And they've set out to make us so.
They know what's best for us, you know.
And so they push their latest cause:
To choose our food with gov'ment laws.
But even though they do their worst
They won't succeed; we'll hang them first.

— by Joy "Fats" Skilmer*

*From: *O Joy!, Occasional Verse From Joy Skilmer, Volume I*, by Lyn Nofziger, MND Publishing, Inc., 2001, Deatsville, Ala. Disclaimer published in the original book: *The author and publisher accept no responsibility whatsoever for the views of Joy Skilmer. Read at your own risk.*

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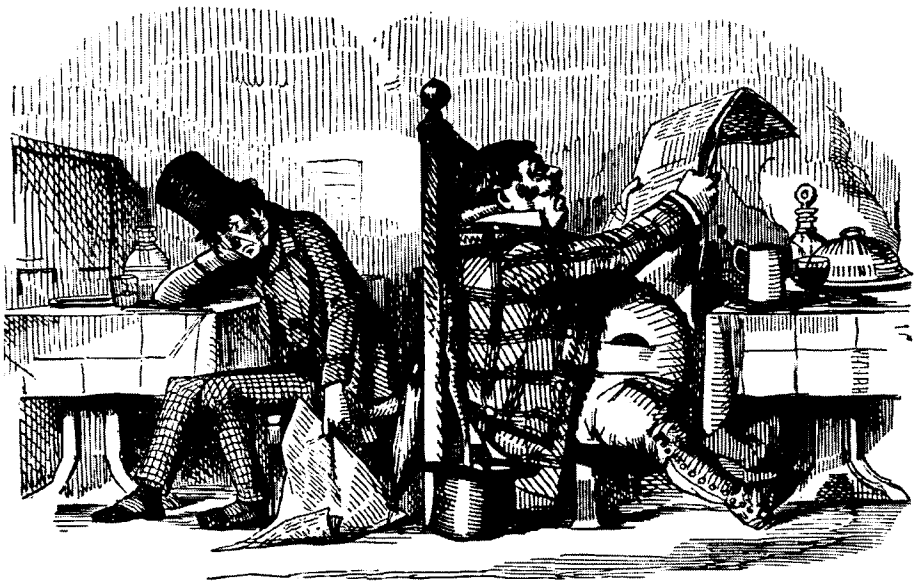
recovered. Eliminating the requirement of a reasonable relationship between the client's recovery and the attorneys' fees transforms lawsuits from mechanisms for the redress of injury to income-generating devices. Enriching lawyers is not a laudable public policy. Under "lodestar," lawyers can recover enormous amounts of attorneys' fees even in the absence of *any* recovery for their clients.

THE "LODESTAR" method has become a full employment act for lawyers, especially for "public interest" litigating groups such as the ACLU and environmental groups that depend on court-awarded attorneys' fees for their operating revenues. When you read in the newspaper that the ACLU, MALDEF, or some other left-wing group has recovered hundreds of thousands of dollars in taxpayer-funded attorneys' fees for enjoining the enforcement of a statute (remember the parental consent law and Prop. 187?) or securing the entry of a consent decree with a compliant governmental entity, this is the gimmick they are using. In California courts (but not, fortunately, in federal court), the perversity of the "lodestar" method is compounded by "multipliers" and "enhancements" that double and even triple the allowable hourly rate based on "bonus factors" such as novelty of the litigation and overcoming the likelihood of failure. In other words, lawyers bringing speculative lawsuits are eligible for a special jackpot, just like betting on a long-shot at the track.

Recall the opening refrain, "If you build it, they will come." Well, we built it and they came. Litigants and lawyers have responded to economic incentives exactly as one would expect. Our courts are clogged with lawsuits and lawyers have never wielded as much power and influence as they now do. Courtrooms have become shrines to greed and avarice. How does one unravel this crazy scheme? The same way one escapes from a minefield — by retracing one's steps. Our jurisprudence wandered off the trail when it took the wrong turns described above, and when it began to authorize contingency fees. If common sense is ever again to prevail, we must return to first principles and insist on reciprocal loser pays, with no bias in favor of one category of litigant over the other. And the fees awarded should be limited to reimbursement of attorneys' fees actually paid, and even then *only* if they are reasonable in relation to the amount in dispute.

But before the law changes, our attitude toward lawyers and lawsuits must change. The presuppositions upon which the existing civil justice system is based are fundamentally misguided. The legal system exists for the benefit of our citizens, not the lawyers or judges. Accordingly, procedural rules must serve the interests of ordinary people, not the legal establishment. Our society must recognize that lawsuits are inefficient, costly, disruptive, unpredictable, and prone to manipulation and abuse. They often inflict crushing burdens on innocent parties and confer undeserved windfalls on others.

Lawsuits frequently undermine principles of self-reliance and individual responsibility necessary for the maintenance of political freedom and ordered liberty. They sap the vitality of a free market economy and promote predatory behavior by special interest groups. Litigation is increasingly used to defeat the processes of representative government. In the brutal rough-and-tumble of lawsuits, truth all too often succumbs to deceit, privacy gives way to intrusion, civility is supplanted by arrogance and churlishness, and integrity is sacrificed to treachery and cunning. Litigation literally diminishes the decency and dignity of our way of life.



For all these reasons, our paramount public policy objective should be to discourage lawsuits, not encourage them. Shutting off the spigot of attorneys' fees is an essential first step. CPR

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An Opening for Common Sense

"The beginning of political wisdom is the recognition that liberalism is at the end of its intellectual tether."
— Irving Kristol

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Adam Smith in a Time of Troubles

Market disciplines, not arbitrary power, serve the common good. To be both well-meaning and to champion government controls requires a head planted firmly in the sand.

WILLIAM R. ALLEN

War imposes various costs and casualties. Some of the hurt comes from vulgarians abroad who wish us ill; and some, alas, we inflict upon ourselves, unnecessarily making a sad situation worse.

We can now reasonably expect the governmental budget for national security and defense to increase. Government surely has significant obligations, and fulfilling some of them will be expensive. But many a politician and commentator is seeking to exploit legitimate concerns and challenges to bloat the role of government generally. And they urge a bigger and more active Big Brother, not hesitantly and reluctantly, but with glee and happy anticipation.

Some years ago, at a conference in which I favorably described the efficient workings of a private-property, price-directed economy, a local television editorialist replied, "The American people deserve something better than Adam Smith."

Just about everyone acknowledges that Smith, the eighteenth century father of the classical school of economics, was an uncommonly intelligent, erudite, insightful analyst. But many — including some purported economists — are quick to dismiss him as a guide for our time. If Smith were ever relevant to responsible people of real affairs, we are told, it was long ago. The open economy is *passé,* an aberration, an ineffective luxury, at best a fair-weather arrangement and process we cannot now afford.

But Smith was neither an anarchist nor a pacifist, and he was not a stuffy conservative. He — like his later classical brethren — was, in fact, a bold reformer, trying to show us the basic ingredients and components of a free, productive, and secure society.

William R. Allen, working his wonders in the UCLA Department of Economics, disdains compromising Smithian truth.

A century before Smith, English political theorist Thomas Hobbes described a state of anarchy in a world of scarcity: "... the life of man [is] solitary, poore, nasty, brutish, and short." To resolve the coarseness of anarchy, Hobbes suggested a "social contract" in which each person gives up his personal autonomy to an absolute sovereign. Big Brother will maintain order — and the trains will run on time.

Smith readily acknowledged the fact of scarcity, but offered an alternative to the dominating government of Hobbes: mutually beneficial trade through market mechanisms of "the invisible hand." A "free" and "open" society, *i.e.,* a system in which the bulk of property is privately held and most of the decisions affecting the use of that property are made by individual members of the community in accordance with their private perspectives and criteria, is a system of reciprocal benefits. We induce people to do what we want by making it possible for them thereby to better their own position. "Give me that which I want," said Smith, "and you shall have this which you want ...."

Smith could not teach us all that we now know. But he splendidly provided the outlines of a society of high individual autonomy, firmly based on widely-honored rights to use of personal property, functioning primarily through markets with market-determined prices, with relative prices providing opportunities and incentives, guidance and rewards.

This could hardly happen in a state of anarchy. A system and procedure of private property necessitates the stipulation of who has what uses of what property; the rules of the game must be enforced; and there must be adjudication of disagreements over the uses of property. All this, Smith acknowledged, requires government.

Government is required, in Smithian doctrine, not

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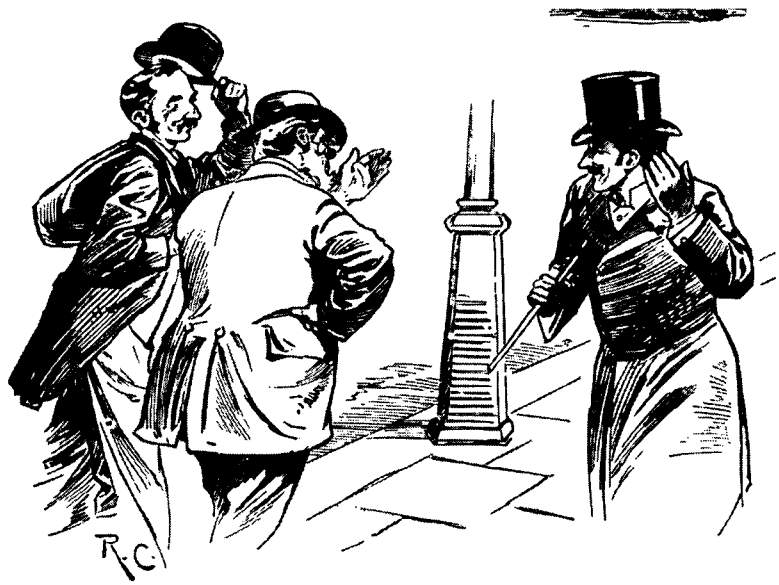
only to maintain domestic order, tranquility, and justice, but to protect the community from belligerents abroad. "An industrious, and upon that account a wealthy nation, is ... the most likely to be attacked," the shrewd Smith suggested, and "it is only by means of a well-regulated standing army that a civilized country can be defended ...." Of course, it is a shame that scarce resources must be diverted from creating wealth to defending wealth previously created. But "defense ... is of much more importance than opulence."



For some of us, this balanced view and sophisticated conception of an open, individualistic society and its productive economy is compelling. But, two and a quarter centuries after Smith, many powerful and articulate members of the community either do not comprehend it or find it inconvenient for their own aspirations to be among the rulers of mankind. And they grasp any seeming opportunity to distort and disparage the Smith-like vision. They find such an opportunity today. The *New York Times,* the *Los Angeles Times,* and doubtless many other outlets have recently been filled with pronouncements and commentaries dismissing as foolish any efforts to restrain the ever-present tendencies to expand the role and activities of the state beyond legitimate boundaries.

"We now know" says a researcher of the Brookings Institution, "that in a crisis you need government." Smith long ago illustrated in some detail that we need government even in times of calm and peace. "... it's naive (or disingenuous) to expect private companies to operate entirely in the public interest," laments a *Los Angeles Times* columnist. Smith had no more confidence in the purity of businessmen's hearts than of government personnel: He was fearful and distrustful of concentration of power in any hands.

But the incessant efforts to subvert the market go beyond the contention that "markets cannot solve every problem." The unkindest cut of all is to contend that markets often are inadequate even when doing their best. These days, one can be awarded a Nobel Prize for elaborating on a point that has been common currency among reputable economists for generations, namely, economic decision making rests on information; information is not only scarce and costly to acquire, but it can be wrong or incomplete or unevenly distributed among market participants; so decisions and actions can be misdirected, and can thus be wasted. A conspicuous economist has cutely put it, "the invisible hand drops the ball."

Information is not only inadequate and costly, it keeps changing as preferences, technology, and sources of supply change. Further, such information as we have at a given time can be badly used — not every consumer and every producer is invariably a shrewd observer and sophisticated analyst. The world is a messy and complicated place. So mistakes are made, and resources are poorly allocated.

Yes, of course, obviously and inevitably. Now, what is to be the alternative? We are to replace the signals and incentives and guidance of the market with the personal predilections and impertinence of legislators, administrators, bureaucrats, and commissioners of government? In contrast to private producers and consumers, officious officials are splendidly informed, endowed with superior analytic competence, and motivated by nothing other than a commitment to do good? We are to abandon the systematic order and rational procedures of the market and adopt an ad hoc arrangement of Big Brother decrees?

But putting government people in charge does not magically eliminate or even mitigate the complications of risk and uncertainty. Legislators, commissioners, judges, and bureaucratic lackeys are not better informed, are not better analysts, are not harder workers than the common folk who are consumers and investors in the private sphere — and the government types, given the institutions and the ground rules within which they operate, have less personal incentive to be efficient.

What they do, primarily, is *not* to contribute to the most effective use of resources according to the preferences of individuals, but to stipulate rules and proce-

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dures agreeable to the state. So they decree more production here and less there, stipulate this mode of production and distribution instead of that, establish maximum prices for some things and minimum prices for others, permit only people selected in ludicrous fashion to participate in certain activities, subsidize favored groups at the expense of the unwashed, intervene in transactions in which consulting adults want to engage, impose regulatory and taxation procedures which only a Rube Goldberg devotee would find reasonable. In a nutshell, what government does commonly and best is to dilute, distort, revoke, and cavalierly ignore private rights to the use of property. Government does, indeed, have legitimate and valuable functions to perform. But six thousand years of recorded human history make it apparent that it often goes beyond appropriate bounds and is clumsy and heavy-handed even when acting within its proper sphere.

Those who persistently try in all contexts to dilute the market and increase the discretionary authority of Leviathan do not deserve Adam Smith and his "obvious and simple system of natural liberty ...." CPR

THE WORKING PRESS

Forbes' gain, *CPR's* loss

A well-earned promotion for Tim W. Ferguson ends his column in CPR.

JOHN KURZWEIL

CPR's Winter 1993 issue carried a short letter from Mr. C.R. Mullin of Santa Barbara lamenting "occasionally" biased reporting in the *Los Angeles Times* and suggesting that "it might be useful to have a column pointing out some of their more egregious examples." I replied that a "media watch" column was an excellent idea that, unfortunately, *CPR,* at that moment, lacked the resources to provide. That fortuitous exchange led Tim W. Ferguson, whom I had met briefly only a few weeks earlier at a *National Review* reception in Los Angeles, to call to volunteer to supply just such a column. I immediately accepted. Tim's first column appeared in our Spring 1993 issue (we were four times a year in those days) and his regular "Working Press" critiques have been a mainstay of *CPR's* lead section ever since.

Alas, Tim's November/December 2001 press review will be his last for *CPR.* Shortly after that issue went to press, word came that Tim, who had been the *Wall Street Journal's* editorial features editor when he began writing for us and later moved on to become *Forbes'* West Coast Bureau manager and, later still, *Forbes'* assistant managing editor, had been named the new editor of *Forbes Global* and executive editor of *Forbes* — a terrific gain for *Forbes* and its readers, but, because this promotion required a move to New York City, it forced an end to "The Working Press."

Of course, Tim's regular readers know he was more than a media critic. His columns combined a vast knowledge of business, fiscal, and financial issues and of state and national politics with a voracious appetite for devouring, seemingly, every shred of news print in the state, and a quick-reading, witty, informative, and, above all, concise writing style that always zeroed in on the key points in any news item. A brief sample, from that first 1993 column, contains all the elements:

> Few press accounts have grappled with the explosion in welfare claims, which along with the imprisonment binge is what's destroying Pete Wilson's budgets. The *Los Angeles Times* flashed the news that Medi-Cal spending had risen an extraordinary 36 percent last year, then dropped the ball. The *San Bernardino Sun* drew a bead on the fact that one third of the city was on the dole, and probably half if you counted jobless and workers comp benefits. A collective failure to detail the handout crisis, probably because of its unpleasant political connotations, doubtless played a role in the defeat of Proposition 165 last November and the state's continuing fiscal helplessness ....

Many thanks and congratulations to you, Tim. You will be missed. CPR

John Kurzweil is editor of California Political Review.

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Endangered Way of Life

Danger in the Species Act: applying its one-size-fits-all formula, the Endangered Species Act has created a needless crisis in Klamath. This is a law that puts people last.

As the new year begins, the future unfortunately remains bleak for many families in the Klamath Basin along the California-Oregon border. The federal government cut off farmers' irrigation last spring in order to provide more water for fish. Bankruptcy and financial ruin have hit many of the region's 1,400 farm families. Although the feds are reevaluating their policy, there's no certainty that it will be relaxed before the next growing season. A century's way of life in the Klamath Basin may be coming to an end. What's often overlooked in the debate over the Klamath crisis is the ultimate culprit: the Endangered Species

Anne M. Hayes is an attorney with Pacific Legal Foundation (www.pacificlegal.org), which represented some Klamath water users in attempts to get irrigation restored.

BY ANNE M. HAYES

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Act, one of the most inflexible — and, literally, inhuman — laws on the books.

Confronted with the conflicting demands in the Klamath situation, most reasonable people would probably advocate compromise. What amount of water is needed in the lake and in the river to help preserve threatened fish stocks? Where could the farmers cut back on water usage, while still maintaining economic viability? What measures can keep area wildlife refuges functional? Where else can we find water to meet these needs? And how can we construct a plan to prevent a repetition of this scenario in future years? Answers to these questions could point toward a workable accommodation. But none of these questions were ever asked — because the ESA is indifferent to such questions. It applies one-size-fits-all procedures and actions geared solely toward the protection of listed species. No other factors can be considered. Regulators must ignore the economic and other effects of their actions — including adverse environmental effects — and every other nuance of often complex situations.

Even after the Interior Department relented slightly in the late summer and allowed a small flow of irrigation water to resume, the cost of the Klamath debacle has been staggering: $250 million in economic losses for the Klamath community; $20 million in federal taxpayer aid for farmers; $17 million proposed by Congress to "study" the situation; $8 million in California aid to the farmers; and a $500,000 loan from the state of Oregon for hard-hit farmers. Populations of ducks, geese, deer, and other wildlife — including bald eagles — that relied on irrigation water have suffered. The Klamath region has been the scene of months of citizen activism and civil disobedience, including trespassing on federal property, a bucket brigade, bucket convoys from three states, sit-ins, rallies, and more. One would think, given this investment of time, energy, and money, that some sort of resolution could be found. But not as long as the terms are dictated by the ESA.

A strong environmentalist lobby opposes changes in the law because it is a monkey wrench that can shut down any productive human endeavor they oppose.

While few people would question the intent of this law, the fact is that it is cumbersome and misdirected. It applies the same complicated, expensive, and elaborate programs to every species issue, no matter how simple or complex it is actually to solve the problem. Since its enactment in 1973, untold billions of dollars have been spent and thousands of lawsuits have been brought, all to save the few hundreds of species that are listed as endangered or threatened. And the results are dismal: in the past quarter century, only 27 species have been removed from the threatened or endangered list. And in no case did any measure dictated by the ESA have anything to do with the removal.

A strong environmentalist lobby opposes changes in the law because in its current form it is a monkey wrench that can shut down any productive human endeavor that they oppose. For instance, it has been effective in convincing several Klamath Falls residents to stop farming and sell out to the government. But if Americans actually want to preserve wildlife, and, furthermore, do so without destroying people's lives and livelihoods, they must demand a major overhaul of the ESA. CPR

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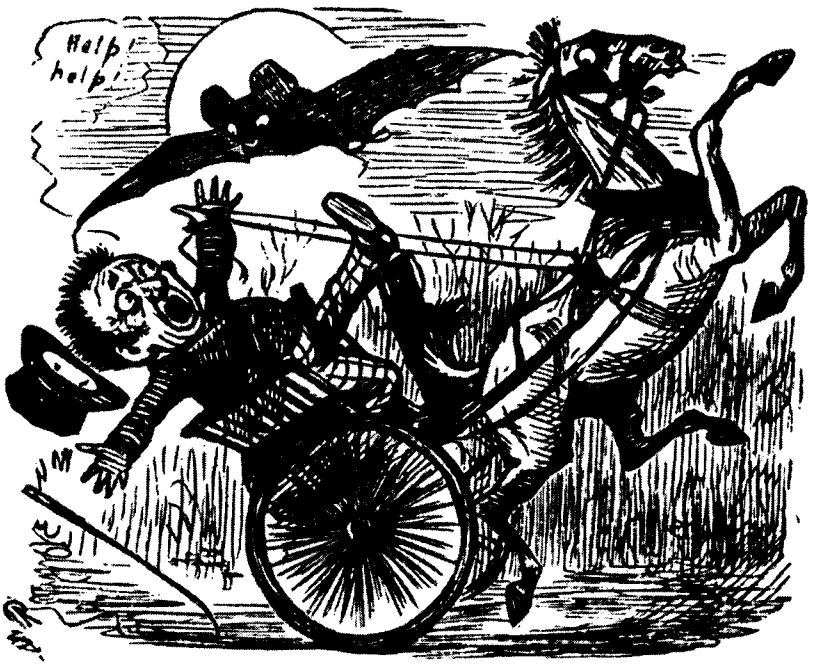

Grim, Scary Tales

* One *

The Tale of the Hungry Wolves who tried to eat homes, livelihoods, and the Orangewood Children's Shelter

Everyone in Orange County knows about the fight over the future of the former El Toro Marine Base. Much less publicity has been given to the battle over the former Tustin Air Base. It is a struggle between people trying to balance competing interests for the common good and other people using race and politics to serve their own political advantage while harming almost everyone else in the pro-

And now children, a pair of stories, one about local government, one about Sacramento, and both with the same moral: power tends to make men small

— or —

Expect little humility, fairness, moderation, or common sense from 'public servants' placed in power over us.

Assembly Budget Committee Vice Chairman John Campbell represents California's 70th Assembly District (Irvine).

BY JOHN CAMPBELL

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cess. Here are the facts:

THE PLAN

The Tustin Air Base is completely located within the city of Tustin. Accordingly, the federal government chose Tustin as the sole re-use authority for the base. The city proceeded to put together a reuse plan over a period of years with much public debate and input. The plan includes historical preservation, new homes, new business areas, new schools, a training facility for the County Sheriff, and charitable uses such as the Orangewood Children's Home — in other words, a balanced, mixed-use approach. Everyone seemed happy. Everyone, that is, except the Board of the Santa Ana Unified School District (SAUSD). After the plan was approved, they demanded property for their schools even though Santa Ana Unified would not gain one single additional student as a result of the development.

THE DEAL

Arguably, with no kids living in or even near the Air Base, Santa Ana Unified should not be entitled to anything in the project. But the district is severely overcrowded and everyone would like to see new schools built to relieve that overcrowding. So Tustin offered SAUSD some land and cash. But SAUSD rejected the offer.

At this point, I agreed to mediate the disagreement personally. Tustin substantially increased its offer and guarantees as a result of these negotiations. I personally witnessed two "deals" where hands were shaken, only to see SAUSD later renege on the agreement by adding additional demands. The offer currently on the table from Tustin is 22 acres of land that has been tested as completely "clean" and meeting all government standards for an educational facility. Furthermore, this land is the closest parcel on the base to where SAUSD kids live. But the offer also includes approximately $42 million cash so that SAUSD can purchase additional land for its schools within Santa Ana and build them. The deal is so good for SAUSD that one of Tustin's problems now is that officials of the Tustin Unified School District are upset *they* are not getting a similar deal from the city even though many new kids will be coming from the development.

Legislation passed in Sacramento on a party line vote to force Tustin to redo completely their Tustin Air Base plan in order to give the Santa Ana School District everything they want. Lawsuits are now rampant.

NOW

After reneging on the agreement, SAUSD, Senator Joe Dunn (D-Garden Grove), and Assemblyman Lou Correa (D-Santa Ana) passed legislation in Sacramento on a party line vote to force Tustin to redo completely their Tustin Air Base plan in order to give SAUSD *everything* they want. Lawsuits are now rampant as SAUSD has now sued the Department of the Navy and the City of Tustin and Tustin is suing to have the legislation ruled unconstitutional.

While SAUSD was arguing with Tustin, the city of Santa Ana approved a gated housing community on property that SAUSD had wanted to use for a high school. No lawsuits have been filed against the city of Santa Ana. Only against Tustin. Furthermore, officials at SAUSD accused Tustin officials of racism. All anyone has to do is go to Tustin High School and see the diversity there to realize the absurdity of this charge. Racism is an epithet often hurled by those who have no legitimate argument.

So where are we now? Tustin's offer is still on the table. But soon, both sides will be locked into years of litigation. As that litigation drags on, no new schools will be built for kids in Santa Ana. No new homes and businesses will be developed, even though our slumping economy badly needs a boost from infill development. Two community college districts will *not* get new campuses. Tustin Unified will *not* get new schools.

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Orphaned children at Orangewood will *not* get a new home. The Sheriff will *not* get a new training facility. Environmental clean up of the property will be delayed and historical preservation will *not* take place.

Why? So that Joe Dunn, Lou Correa, and the Santa Ana Unified School Board majority can serve their petty, partisan political power interests over the good of the people, including their own constituents. SAUSD should honor their previous commitment, take Tustin's generous proposal, and start building their three new schools.

* Two *

The Tale of a Golden State, a greedy donkey, and a striking resemblance to the times that gave us Prop. 13.

You may have heard recently that the budget of the state of California for the upcoming fiscal year (2002/03) is projected to be in a deficit of $8 to $16 billion, depending on who is doing the projection. That is a substantial shortfall. Overall general fund spending for the current fiscal year is something less than $80 billion. That means that we are looking at a budget shortfall of between 10 and 20 percent. All of that is true.

You may also have heard the governor's office and Democrat leaders in Sacramento suggesting that this deficit was caused by the attacks of September 11: that somehow this massive, multi-billion-dollar deficit materialized within a matter of weeks last fall, taking them by surprise, and that it was unpreventable, but that now they are taking firm action to deal with it. All of that is *not* true.

Had we limited spending to population growth plus inflation (the formula specified by Proposition 4, passed overwhelmingly in 1979), we would have another surplus this year.

In fact, all the signs of this impending budget crisis have been evident in Sacramento for far more than a year. However, the one-party ruling *junta* that controls such matters in our state Capitol chose to ignore these warnings and proceeded to create the problem we now face. Here are the facts that they ignored:

Stock Market Gains Are Variable

As early as 1999, the independent Legislative Analysts Office (LAO) warned it was risky for the state to depend on continued high levels of tax revenue from capital gains and stock option transactions.

In the fiscal year 2000/01, capital gains taxes made up 23 percent of the total general fund revenue of the state. It was only 5 percent in the mid '90s. It would have made sense to spend this windfall revenue on one-time projects (little things like roads, water, and housing perhaps). But no, *junta* leaders devoted most of it to ongoing programs. Would you lock yourself into a higher mortgage payment because you received a bigger Christmas bonus this year? Of course not: that would be extremely poor fiscal management. But Sacramento Democrats don't seem to understand the shortfalls of this approach.

Spending Increases at Seven Times Population Growth

During Gray Davis's term as governor, general fund spending has increased 37 percent, as Republicans have pointed out all year. State population has increased only 5 percent in those three years.

But let's be more generous and look at personal income, which increased 22 percent in that same period. Had the spending increase been limited to the rate of personal income growth, the deficit would be substantially smaller or there might be no deficit at all. Had we limited spending to population growth plus inflation (the formula specified by Proposition 4, passed overwhelmingly in 1979), we would

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have another surplus this year.

Last Year's Budget Was in Deficit Too

The budget Davis signed last year contained a $4 billion deficit. That is, current year, on-going spending exceeded current year revenues by $4 billion, as LAO originally pointed out last April. The budget was "balanced" by spending the $4 billion surplus from the prior year. So: no surplus this year — plus the liberal iron law that every year's spending level sets the next year's minimum starting point for adding new spending — guaranteed a *best case* $4 billion deficit this year. And Democrats *knew* that when they passed the budget, long before September 11.

State spending is now 7.3 percent of all personal income — its highest level since before passage of Proposition 13 in 1978. Furthermore, state government employs the highest number of employees per population since — you guessed it — before Proposition 13. It is also interesting to note that the last time Democrats controlled the governor's office and both legislative chambers, between 1974 and 1982, was precisely when the Proposition 13 taxpayer revolt occurred. The governor and Legislature are likely now to call for further tax increases in addition to the sales tax hike scheduled for January 1. And they probably will try to justify it as a necessary response to the new, unanticipated threat of terrorism. But the deficit came as no surprise. It was not caused by September 11. This is just California's one-party ruling *junta* up to its usual tricks. CPR

State spending is now 7.3 percent of all personal income — its highest level since before passage of Proposition 13 n 1978.

Hark to the tale of Johnny Lindh:
(Against his country he has sinned.)
Young Johnny Lindh when just a boy
Thought Islam was the real McCoy,
Got him a rug, set out to pray
Facing Mecca five times a day.
Then traveled to Afghanistan,
Where first he was a Taliban,
And then became bin Laden's man,
Hating all things American.
He took up arms, only to find
That Yankees are a tougher kind.

Now Johnny Lindh sits in a cell,
Hardly paradise, more like hell,
And as he waits his thoughts are grim —
Why has Allah deserted him?
He will have years to ponder this,
To ask himself what went amiss.
And, as in Leavenworth he sits,
To wonder why life is the pits.
Still, as one of bin Laden's gang.
He's lucky that he will not hang.

by Joy Skilmer*

** The collected poems of Joy Skilmer, né Lyn Nofziger, are available from MND Publishing Inc., 573 Marina Rd., Deatsville, AL 36022. Keep up with Lyn's regular "musings" at: www.lynnofziger.com*

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Fall Guys

San Francisco scapegoats small hotels to house the homeless

by M. David Stirling

IN THE years following the earthquake and fire of 1906, San Francisco entrepreneurs, including A.P. Giannini of the Bank of Italy (later Bank of America), spawned the construction of some 500 small tourist hotels throughout the city. One of these historic hotels — a 95-year old Victorian in North Beach named the San Remo — is currently the focus of a nationally-watched legal dispute before the California Supreme Court, in a case that asks whether a few small property owners should be singled out to bear the cost of large social problems that affect us all.

During the 1960s, the San Remo, along with other small hotels with names like the Juliana, the Monticello Inn, and the Cornell, began showing serious signs of age. By 1971, the San Remo had become so dilapidated that it was on the verge of becoming a public nuisance, and city building inspectors issued a notice of condemnation. Entrepreneurs, however, came to the rescue by purchasing many of these run-down old hotels. Brothers Tom and Robert Field acquired the San Remo, and proceeded to restore authentically the 68-room Victorian, including its restaurant and bar, at a cost of more than $1 million.

Similarly, the Cornell Hotel was acquired by French immigrant Claude Lambert, who had worked there for a dozen years as janitor in exchange for room and board. Over time he invested $1 million, turning the six-story Victorian building into a charming inn with a French restaurant.

But instead of showing gratitude to these individuals for staving off blight, city officials responded by punishing them for opening their doors to tourists rather than leaving the buildings as habitats for the homeless. In 1981, *after* several proprietors had taken loans to finance restorations, city officials enacted an ordinance to discourage the conversion of small, rundown hotels into tourist facilities. For instance, Claude Lambert was told that only 27 of the Cornell's rooms could be made available to tourists; the other 31 rooms must be rented to

(Please turn to page 30)

M. David Stirling is vice president of the Pacific Legal Foundation: www.pacificlegal.org

Rhetorical Plutonium

Using bin Laden to nuke your opponents

by Tim Leslie

WE'VE GOT it again for the first time since Adolf Hitler ... indisputable evil. It's distinct, definite, and more than 90 percent of American's agree that it is downright despicable. And in an age when very few things are definitively bad, this rare, shared recognition of wickedness can be used as political plutonium. Designing the warhead is simple. If you can identify a link or even suggest some similarity between your political/ideological adversary and bin Laden, the Taliban, or terrorists in general, you've dropped an oratorical atom bomb. The war's over. You win.

Slightly less direct, although carrying similar impact, is to show that your side is somehow similar to groups the evil people don't like. Demonstrate that the group you belong to is just like folks the Taliban has victimized. After all, if evil people hate your kind, you must be good, right? Another explosive victory.

Unfortunately, while fear of mutually assured destruction has

(Please turn to page 28)

Tim Leslie represents California's 4th Assembly District.

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WE'VE GOT it again for the first time since Adolf Hitler ... indisputable evil. It's distinct, definite, and more than 90 percent of American's agree that it is downright despicable. And in an age when very few things are definitively bad, this rare, shared recognition of wickedness can be used as political plutonium. Designing the warhead is simple. If you can identify a link or even suggest some similarity between your political/ideological adversary and bin Laden, the Taliban, or terrorists in general, you've dropped an oratorical atom bomb. The war's over. You win.

Slightly less direct, although carrying similar impact, is to show that your side is somehow similar to groups the evil people don't like. Demonstrate that the group you belong to is just like folks the Taliban has victimized. After all, if evil people hate your kind, you must be good, right? Another explosive victory.

Unfortunately, while fear of mutually assured destruction has

(Please turn to page 28)

Tim Leslie represents California's 4th Assembly District.

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NOTEBOOK

Christian Coalition

Christian Coalition of California Executive Director: John Fugatt; Director of Operations: Miriam Archer. California Christian Coalition works closely with all California pro-family groups, strengthening communication among people of faith, providing issue education, and encouraging well-informed voting.

In its tenth anniversary year, Christian Coalition of California launched a major new initiative: Protect California Families, an "outreach" program designed to build bridges into all of our ethnically-rich state's communities. The new effort began creating contacts in the Latino community last April with an East Los Angeles event, continuing in October in Orange County. California's Latino population is pro-family and Christian. Its people are intensely interested in learning about legislation, especially bills that affect their children. Protect California Families is informing a new group of grassroots activists on how to protect their families from the effects of such anti-family legislation as last year's AB 25, a Democrat attempt to nullify the Defense of Marriage initiative. Several additional events are planned around the state this year.

CC of California is also working with Morton Blackwell's Leadership Institute to help train grassroots activists and candidates for public office. Christian Coalition helped plan and publicize four "institutes" — in San Diego, Orange, Sacramento and Alameda Counties — that included new segments devoted specifically to the concerns of Christian conservatives. All four were sold out,.

A January 11-13 Institute is scheduled for Fresno, with Redding, Bakersfield, Los Angeles and Riverside County seminars proposed for later this year.

Teaching the Constitution

The Center for Teaching the Constitution uses original source documents and instructional material that fosters education about America's founding documents "unlocking," its brochure says, "the classical learning techniques of the founding fathers." The Center offers courses (both traditional and internet), tapes, cassettes, and books, ranging from a pocket-sized *Declaration of Independence* and *Constitution* to *The Federalist Papers* and a 900-page "library edition" of Alexis de Tocqueville's *Democracy in America*. Contact the Center at P.O. Box 5118, San Marcos, CA 92079, or, on the web: *www.teachconstitution.org*.

Simpson's Ghost

The LA Times *failed to print the following letter to the editor from* CPR *Legal Issues correspondent Mark S. Pulliam. We herewith rectify the* Times' *error:*

Gerald Uelmen, of all people, criticizes Attorney General John Ashcroft for defending the President's authorization of military tribunals in wartime. Uelmen conjures up the ghost of Mary Surrat, who, he speculates, was wrongly convicted by a military tribunal and executed for complicity in the assassination of President Lincoln. Well, let's conjure up the more recent ghost of O.J. Simpson who, thanks to Uelmen and the rest of the "Dream Team," hunts his ex-wife's killer on south Florida's golf courses. The criminal trial of O.J. Simpson was a farce and a travesty. The alternative to military tribunals is civilian trials. Does anyone seriously believe that trying suspected terrorists in the type of spectacle Professor Uelmen participated in, resulting in the acquittal of O.J. Simpson, is preferable to a military tribunal, the use of which has been upheld by the U.S. Supreme Court? CPR

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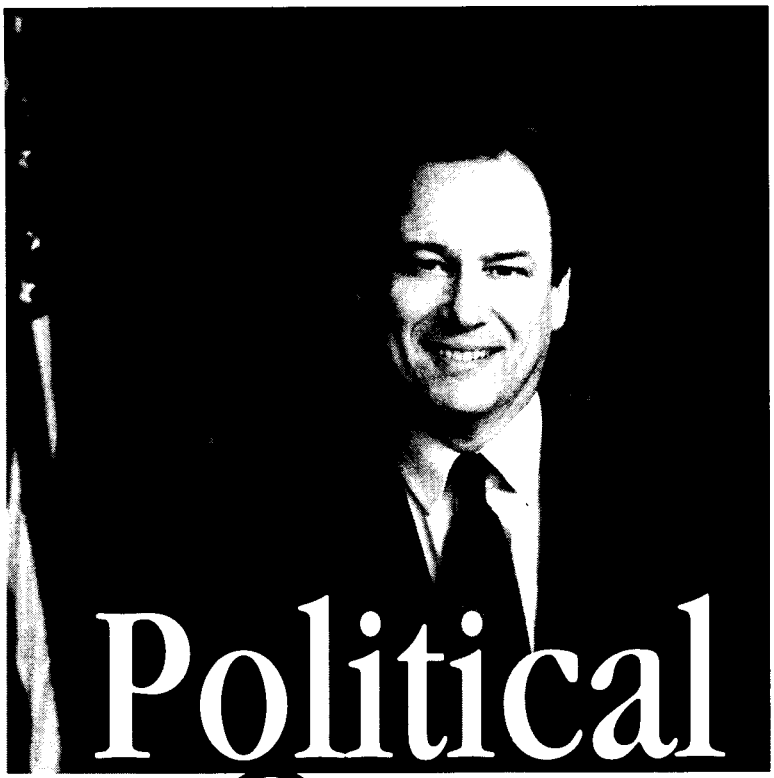

Political Oxymoron

A conservative Wilsonite; A veteran pol unused to raising funds — Bill Jones' unorthodox road to the 2002 governor's race.

by John Kurzweil

California Secretary of State Bill Jones's campaign has a subtitle: "Decisive Leadership, Uncommon Integrity." It appears at the top of the campaign website, on its news releases, and its message was emphasized by Governor George Deukmejian when he announced he would serve as Bill Jones for Governor chairman. Jones's "integrity, honesty, leadership, and achievement," Duke said, had brought him on board.

In one aspect, this theme is a way of making a virtue of weakness: Jones is far behind his GOP rivals and Democrat incumbent Gray Davis in fund raising and, despite more than a decade in Sacramento — holding statewide office since 1994 — Jones has built no substantial political organization that could now be mobilized to support his run for the state's top political post. Several knowledgeable people, including both supporters and opponents of Jones's gubernatorial candidacy, told me he is a poor fund raiser simply because *he has never learned how to do it* — he has never *had* to raise money on his own before. And so, a handy way of explaining the situation is to emphasize Jones's integrity, as opposed to a willingness to compromise that, it is true, often accompanies political success.

Jones began his Sacramento political career in the state Legislature, representing the Central San Joaquin Valley's 32nd Assembly district. Before that, he worked on his family-owned farm in Fresno and was active in local chambers of commerce. His political activities included a chairmanship of the Fresno County Republican Central Committee. The high point of his leg-

John Kurzweil is editor of California Political Review.

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islative career was his 1994 authorship of California's "Three Strikes and You're Out" law, mandating especially tough sentences for repeat criminal offenders to remove them from society. His campaign website, summarizing his legislative career, says:

> Jones was elected by his peers to serve as the Minority Leader in the State Assembly in 1990. During his tenure in the legislature, Jones compiled a distinguished record of achievement and an unparalleled reputation for honesty and integrity.
>
> While serving as Minority Leader, he successfully fought for the historic reapportionment of 1992. The re-drawing of the legislative district lines that year returned fair and competitive elections to California and erased the severely gerrymandered district lines that existed previously.

Reforming redistricting is certainly one of Republicans' early '90s success stories — one tarnished, sad to say, by last year's GOP agreement with Democrats to re-impose gerrymandering on the state — and Jones may fairly lay claim, along with his fellow Republicans, especially Pete Wilson, to a share of the credit for that victory. But summarizing the balance of his time in the Assembly merely as compiling "a distinguished record of achievement and an unparalleled reputation for honesty and integrity" leaves a great deal unsaid. First of all, the statement appears to be in error — Jones became Assembly Republican Leader in 1991, not 1990. The first half of '91 was a particularly stormy period, during which newly-inaugurated Governor Pete Wilson declared war on his own Party, beginning by proposing the largest state tax increase in American history. The proposal was fought as a betrayal of the GOP's tax-cutting mandate by lower house GOP conservatives. Ross Johnson was Assembly GOP leader. Pat Nolan criticized Wilson's plan to continue financing profligate Democrat spending by reminding voters that California had seen "three decades of growth in state government, under Democratic and Republican governors, and what we've had is failed socialism in California, like they've had in Eastern Europe. Government tries to educate, feed, clothe, house, and medically care for our poor and does it poorly." Tom McClintock pointed out that "over the past eight years ... in current dollars, state spending has increased 120 percent while the population's increased only 20 percent. Does that sound like a budget that can't be cut? To the governor it does." Wilson reacted angrily, castigating conservative legislators for "political grandstanding" and encouraging a media pillorying of them as obstructionist fanatics more devoted to narrow ideology than practical reality. Wilson eventually found an ally in Assemblyman Paul Horcher who, succumbing to the pressure, cast the 54th "aye" vote for the tax increase that put it over the top.

But the governor was just beginning. As described in the *CPR* Summer 1991 issue's *Sacramento Spectator* column, Wilson then

> engineered the coup that overthrew Orange County conservative Ross Johnson as leader of the Assembly Republican Caucus. Johnson was replaced by the more moderate (and Wilsonian) Bill Jones of Fresno. The action was plotted, strategy mapped, and the votes counted deep within the governor's office. Johnson refused to support Wilson's tax increases during the budget battles. Wilson could not let that situation stand and so was up to his hips in the leadership change. The governor's staff was described as so happy about Johnson's departure that they were "dancing on their desks."

The statement that Leader Jones subsequently "compiled a distinguished record of achievement" is not without its dissenters. In *CPR's* next issue — Fall 1991 — *Sacramento Spectator* reported that shortly after the Jones takeover, Assembly Speaker Willie Brown, who was "able to sense political weakness like a shark sniffing blood in the water," summarily fired all 15 policy consultants to GOP Assembly committee members. These staffers, the *Spectator* wrote, "were the GOP's eyes and ears in the Assembly .... devastatingly effective in torpedoing bad Democrat bills, a fact not lost on the Speaker."

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What, the *Spectator* asked, "has been the response of Bill Jones and his 'leadership' to this direct challenge ...? So far nothing but hand wringing and whining."

Six months later, in *CPR's* Spring 1992 issue, *Sac Spec* reported that:

> Jones and his crew continue to get caught flat footed by the Democrats in the Assembly. On two recent occasions — one concerning a maneuver to skirt the spending limits included in Proposition 140 (term limits), and the other a Democrat attempt to ram through their version of the budget — the Jones faction sat in their seats, almost literally with mouths agape and eyes glazed, while Willie Brown and his team steam rollered over them. Both times, it was the conservatives, the "outs" — people like Bill Baker and Ross Johnson, none of them members of the Jones leadership — who finally rose to the defense of the taxpayers, rallied the troops on the Assembly floor, and spoke effectively against the Democrat tactics. The official leaders, meanwhile, stood around looking disoriented and confused.

Jones has criticized Davis sharply in the campaign, but this has helped drive away the politically squishy ag money that previously provided him significant support.

Later that year, Wilson ran his statewide slate of anti-conservative Assembly primary candidates, most of whom lost. The bitter, intra-GOP war, combined with George Bush Sr.'s failed top-of-the-ticket re-election campaign, led to a sound drubbing of Republican legislative candidates in November. Jones gave up the leadership to Jim Brulte shortly thereafter.

He went on to author "Three Strikes" and, in 1994, win election as California Secretary of State, making "history," as his website biography puts it, "by becoming the first resident of California's Central San Joaquin Valley to serve in a statewide constitutional office."

> Since his election, [the biography continues] Jones has compiled an impressive list of accomplishments which includes conducting the state's first-ever Elections Summit to review California's elections law to help guarantee a fraud-free voting system. Jones also established a Voter Fraud Task Force, implemented strict penalties for candidates and lobbyists who fail to meet important disclosure requirements, and created an advisory panel to prepare for the future electronic filing of campaign contribution and expenditure reports.
>
> Since he took office, Secretary Jones has pursued the ambitious goals of achieving 100 percent voter participation by those eligible and zero tolerance for fraud.

As mentioned earlier, Bill Jones has had trouble raising funds, a problem often blamed on his lack of experience doing so. He entered state elective politics backed by California's Central Valley agricultural interests. Like many of the state's business, labor, ethnic, and other political groups, a strong element exists within the state's agricultural community whose interest in politics is strictly "business" — that is, it is unconnected to, and not interested in (sometimes even showing contempt for), issues and political battles that it believes extend beyond its own perceived direct concerns — battles over big government versus individual and market freedom, for instance. This element likes — and cultivates and supports — political figures in both parties that share its limited political perspective. It sees itself, self-consciously and without excuse, as a "Special Interest," to use the standard phrase.

To illustrate: this ag community political element opposed Assemblyman, later Senator, Don Rogers' long, and ultimately successful, campaign to end California's inheritance tax, even though Rogers was a solid leader of the farm community *and* even though farmers certainly

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had no particular reason to support the death tax. Rogers' effort was seen simply as a distraction from the particular Special Interest concerns the ag group wanted championed and, worse, it proved terribly upsetting to the Democrat leadership, which, of course, *looks upon any* proposal to eliminate taxes as akin to an invitation to drink hemlock.

This bit of background helps clarify why Bill Jones is having difficulty raising money. Governor Gray Davis has let it be known in blunt terms that any political constituency providing any real support for GOP gubernatorial challengers will be treated as a pariah in a second Davis term. I have spoken to farmers, life-long Republicans and conservatives, who say they believe that, under the circumstances, they simply cannot afford to support *any* Republican candidate against Davis. As befits a serious candidate, Jones has criticized Davis sharply in the campaign, but this has helped drive away the politically squishy, Special Interest ag money that previously provided Jones significant support from the start of his political career. When he was helping Pete Wilson try to re-make the Assembly GOP in his own image, Jones, of course, had the governor's formidable fund-raising powers to support him. But those days, and Wilson with them, are now long gone. Without these two major sources of past dollar-raising support, Jones's failure to develop his *own*, independent base of political support has shown itself in his tiny campaign bank account.

Nonetheless, his supporters think he can win, and they argue several points to back up their position. First, of course, is the simple fact that politics is about a lot more than just money, as Al Checchi, among others, can attest. Our elections are really about competing visions of the state's future. One side evaluates life in terms of brute power, and places its faith in mass organization: in big government, big education, big media, big unions, everything big and powerful, in worldly terms at least.

The other side begins and moves from what is small: individual people, single families, voluntary associations, private businesses. It typically sees even the world's largest entities — nations, economies, populations — as merely the accumulated sum of a lot of small, individual units and groups.

One side emphasizes quantity; the other quality. American politics is, in many ways, a clash of these competing visions because the American people and the American experience include elements of both. Our nation was founded on the principle that the interests of the vast, powerful British Empire were properly subservient to the moral worth of every individual man. Although the empire lost in the nation's founding, the view it represented is always with us. Senate Democrat Sheila Kuehl, speaking as a leader of the dominant Party in California politics, was recently quoted stating her view that the only right that is "absolute" in the United States is the right to believe what one wants. Everything else, presumably, is negotiable. The constant factor, in Sheila Kuehl's world, is not Jefferson's inalienable rights, but the interests of humanity as a whole, defined and implemented by government — by the powerful.

Now Bill Jones is a Republican, a member of the Party opposing Kuehl's vision — a highly imperfect vessel, to be sure, to uphold the principle that the individual is prior to the state, but it is all, for the present and foreseeable future at least, that is available to the people of California to fill that role. Under the circumstances, Republican Jones's relative lack of funding is not nearly so important to large numbers of Californians who care intensely about preserving human freedom as is the question: is Jones the Republican most likely to succeed in November and, if he succeeds, the one most likely to champion their side of the essential political battle in the governor's office? Answering both those questions yes is, in effect, the real message conveyed in the campaign emphasis on Jones's "integrity, honesty, leadership, and achievement."

Perhaps under more normal circumstances, this point alone might not provide Jones much

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hope. But these are not normal political times for California Republicans. The California GOP has suffered from an intensifying dearth of leadership since at least the end of Duke's second term as governor. The current GOP field reflects this, featuring political newcomer Bill Simon, who, at this writing, remains mostly unknown to the voters, and phony Republican Dick Riordan, whose supposedly "GOP" candidacy keeps getting submerged in a sea of Democrat advisors, policy positions, and Riordan's own donations to Democrat campaigns.

To illustrate just how far things have deteriorated, in an evidently typical incident, a recent Riordan press briefing became a mini-debate between the candidate and his Democrat wife, Nancy Daly Riordan. Nancy jumped in to answer for her husband when he tried to dodge a reporter's question on whether he supports funding for contraceptive programs and sex education for teenagers. "Ah, your getting me in trouble there," Dick reportedly said. Wife Nancy, verbally elbowing "the candidate" aside, said "It's correct to have things available to children." Riordan reportedly shrugged and laughed.

I shouldn't have said Nancy answered *for* her husband; really she answered for herself, and for the Democrat Party, giving *its* position on the question. This is more like a Saturday Night Live parody of a Republican candidacy than the real thing, except that no comedy writer would dare begin with a premise so out-of-the-question impossible as the bizarre reality of Riordan's run for governor.

When a Party's front-runner emerges as so preposterously ill-disguised an opposition stalking horse as this, the phrase "leadership vacuum" hardly seems adequate. Under such desperate circumstances, Republicans may well turn to Bill Jones. At least, his supporters so argue, and not without some plausibility. For one possible scenario, consider the following:

One: according to Bill Simon's campaign, its surveys show Dick Riordan's support among Republican voters collapses when respondents hear so-called "push" questions — for instance, would you still support him if you learned he opposed Proposition 13? or that he gave Democrat Tom Bradley half a million dollars to oppose George Deukmejian?

Two: if Simon spends significant funds conveying the message of Riordan's liberalism convincingly to large numbers of GOP voters, and the predicted collapse of Riordan support follows, the next question becomes who, if anyone, then receives Republican primary votes for governor? Some Jones supporters say their candidate could gain the benefit of Simon's public education campaign on Riordan because, unlike Simon, Jones is already known to GOP primary voters. Rather than fall back on the still largely unknown Simon, the thinking runs, Republicans will turn to Jones.

Three: once Jones has the nomination, Gray Davis's manifest weaknesses with the electorate will insure the secretary of state adequate funding for the fall run and a chance of winning.

That's one Jones scenario, which I offer readers to make of what they will.

And a few more points about Jones to consider: Virtually everyone I talk to about him, including those supporting other Republicans against him, echo George Deukmejian, saying first that he is one of the nicest men they have ever met in politics. This has to be considered a plus, indicating, if the perception comes through on television to average voters, that Jones will avoid the weird Dan Lungren combination of arrogance with uncertainty that doomed Lungren's run for governor. But it is one thing to impress people as "nice"; it is something more to engage them, George W.-style, as an exciting candidate with whom they can and want to work, stimulating real enthusiasm. Jones may yet prove able to do that, but if he does, he will have to "come out of his shell," as one GOP strategist put it, much more than he has before now through all his years in Sacramento.

One thing we know:

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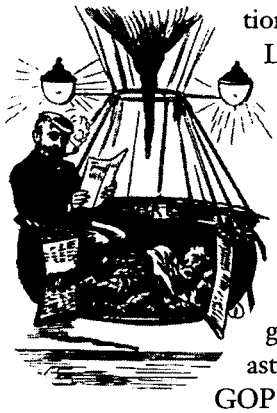
Jones's "niceness" won't preclude tough campaigning. His sharp jabs at Riordan prove that. It was Jones's campaign that found and circulated at the last Republican state convention a flyer from Riordan's first L.A. mayor's race. The flyer features Democrat Stan Sanders, a defeated primary candidate for mayor, endorsing Riordan against Mike Woo with the words: "I've known Dick Riordan for 25 years — and Dick Riordan is no Reagan Republican ..." It was devastatingly effective among the GOP faithful and brought Jones a lot of press.



Bill Jones for Governor also produced a hard-hitting newspaper ad headlined "Reality Check," and topped by a reproduction of a Richard J. Riordan personal check, dated March 1, 2000, for $12,500.00, payable to the Governor Gray Davis Committee. Lower down, the ad noted that "Richard Riordan and his wife contributed $78,500 to Gray Davis — just one reason the Democratic Party named him an 'Honorary Democrat.'" Thus Jones has shown he knows how, and is willing, to send clear, strong messages, tough but fair, and right on target. He knows how to give voters solid facts to consider, relevant to their concerns and to the specific decision they are preparing to make at the polls. These are essential elements of winning campaigns that too few Republicans seem to appreciate or to have mastered.

A major problem for Jones, however, is his 2000 presidential endorsement switch, withdrawing his support from Bush after the New Hampshire primary to move over to John McCain. The Bush people certainly have not forgotten it, although there is some talk that, with chances increasing that Davis might actually prove beatable, White House concerns about Riordan have grown enough that the Bushies may put the Jones/McCain issue aside. GOP activists say the McCain endorsement hurts Jones both as a showing of poor political judgment — picking a loser is never respected in politics — and by undermining his conservative standing. "McCain is no conservative," a long-time Republican leader said. "He is off on his own government activism line." He cited McCain's championing of campaign laws he said favor incumbents over challengers, diminish voters' ability to influence lawmakers, and trample First Amendment free speech guarantees, all positions Jones in effect embraced by championing McCain.

A Jones supporter admitted the McCain matter is a "severe problem," but argued that it resulted from Jones's principled opposition to "special interests buying" elections and political power. In this light, Jones's McCain role is seen as showing he is no Pete Wilson opportunist. If that is so, it is still true that, as essential as it is, loyalty to principle is only a start. One's principles must be wisely chosen, and fought for intelligently, two requirements Jones's McCain gambit seems, to many, to lack. And even the contention that Jones was acting on principle is questioned by some critics who remember Jones's early-'90s collaboration with Wilson. They also point out that Jones switched his endorsement from Bush to McCain only *after* McCain's New Hampshire primary win, but before Bush's big South Carolina come-back — during the period, that is, when the press and the "experts" nationwide were saying the momentum had moved to McCain. Had McCain somehow pulled out the nomination, Jones would have found himself well placed in California as nearly the only prominent Republican here to have backed him early.

Jones's positions on specific issues generally please conservatives, McCain notwithstanding. Second Amendment supporters have nothing but good to say about his record on guns. When the governor signed a pair of gun registration bills this year — AB 35, Shelley, and SB 52, Scott — Jones said "Davis broke his promise to impose a moratorium on new gun laws. And now when public interest in personal safety is at an all-time high because of the September 11 national tragedy, our highest priority should be to balance law-abiding citizens' legal rights to provide for their personal safety, while not imposing new unnecessary and burdensome regulations."

His pro-life, pro-family record appears equally

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solid. Jones blasted Davis for signing Carole Migden's bill expanding "domestic partners" benefits, AB 25, saying, "While I support the compassionate elements of the proposal, specifically regarding hospital visits and medical care options, the governor has signed a very broad bill whose other provisions are clearly inconsistent with the will of the voters expressed just 19 months ago when they adopted Proposition 22 [defense of marriage] with 61 percent of the vote."

On economic issues, Jones criticized Davis's energy policy that, he said, "increased the cost of living for low- and moderate-income households," and for supporting a new "prevailing wage" law that would "price them out of the housing market entirely." Jones cited "affordable housing advocates [who] predict this will increase the price of low- and moderate-priced housing by 30 percent. We already have the most expensive prevailing wage laws in the nation." And Jones hit Davis again on his handling of the economy in general and of state finances and energy policy in particular, in a statement on legislation Davis backed to increase unemployment insurance benefits: "With the California economy sputtering, in part because of the governor's energy policies and mismanagement of the budget surplus, unemployment will certainly increase. But the fiscal mismanagement of the energy crisis has created a multi-billion dollar deficit that once could have provided additional unemployment insurance benefits to those affected by the September 11 tragedy. Instead he signed a bill that will increase business taxes by up to $782 million in the next four years — placing a new burden on employers. Increasing employment taxes makes job creation harder and prolongs our economic slowdown."

Jones has sent voters clear messages, tough but fair, and right on target. He knows how to give voters solid facts to consider, relevant to the decision they are preparing to make at the polls.

But beyond this campaign and positions on specific issues, there are the questions of leadership and trust. If Jones feels so strongly the call of principle, his GOP critics ask, where was he during the early '90s' conservative/Wilson, tax-and-spend wars and the later effort to destroy the pro-market majority in the GOP Assembly caucus? Where was he in battles with Willie Brown, when Democrats needed effective opposition and instead received apparent acquiescence? And where has he been ever since? Most relevant, they now wonder whether a Governor Jones would carry his tough campaign style into future fights with Democrats, or revert to what they see as his accommodationist past.

Jones's shortage of campaign resources, compared with those of his rivals Riordan and Simon, seems to leave his fate largely in their hands. He has a chance ... *if* Riordan's combination of free liberal media support, his own ample fortune poured into plenty of TV, and the best Democrat campaign minds the ex-mayor's money can buy all fail to build an insurmountable advantage ... *if* Simon's dollars successfully lower Riordan's poll numbers among Republicans *without* convincing them that Simon is *the* man ... *if* Jones's name ID can fill the gap left by a lack of campaign TV of his own ....

Enough ifs, surely, to keep this up in the air for several more weeks. But who thought Gray Davis could beat Al Megabucks Checchi? Who thought David could beat Goliath? As a certain obnoxious sports talk host likes to say: "scoreboard, baby, scoreboard — that's why they play the game." At eight weeks out and counting, no one is out of this race yet. CPR

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Leslie

(Continued from page 19)

kept nuclear weapons grounded in the real world, nukes in the rhetorical realm are often launched as soon as they are constructed. Collateral damage is heavy, with the first victim often being reason itself.

FOR EXAMPLE, using the arguments suggested above, we can "prove" that deciding to be an artist, adulterer, professional woman, drunk driver, thief, Christian missionary, homosexual, or western capitalists would all be positive and morally beneficial choices. After all, each of those groups are good guys whom the evil people persecuted.

By the same logic, those who are religiously devout, idealistic, willing to die for a cause they believe in, or were anti-Communist fighters in the 1980s can be lumped neatly in with "the evil folks." The Taliban, after all, was each of those things.

The verbal missiles started flying soon after September 11. A headline article in the *New York Times* magazine, "This Is a Religious War," strongly hinted that 9/11's dark events should be laid at the feet of all those with firm religious convictions, particularly those who are not "at peace with ... modernity." By implication, individuals who question extreme relativism and lament the disintegration of the family and other perceived moral declines should, at very least, be closely watched.

California State Superintendent of Public Instruction Delaine Eastin hit even harder, suggesting a political opponent's support of sex

An article in the *New York Times* magazine, 'This Is a Religious War,' strongly hinted that 9/11's dark events should be laid at the feet of all those with firm religious convictions.

education that encourages abstinence and other traditional moral views put her in the same camp as "those people that flew into the World Trade Center and Pentagon."

Is it not deeply ironic that America's strongest, clearest moral judgment in more than five decades — condemning the evilness of Osama bin Laden's actions — is being used to squelch serious discussion of moral questions in favor of an anything-goes relativism?

As the initial hesitancy to harness September 11 for political impact wears off, we can expect to see even more jagged-edged arguments, particularly against devout faith, firm convictions, and any commitment to moral absolutes. All will be presented as the great evil that gave us Osama bin Laden.

Is it possible that those who argue such things are correct? We will only know the answer if we take seriously the question of what it is that makes bin Laden and his cohorts evil. Is it his supposedly religious zeal or fervent commitment to certain ideals? Or has he simply devoted himself to something that is, in the old fashioned sense, wrong — a twisting of what is good and right and true?

If it is the former, our obvious recourse is to do everything we can to rid society of every form of strong moral and religious conviction. All behaviors and actions, as long as they aren't like bin Laden's, are to be embraced. Anything that smacks of judgment or moral clarity is highly suspect.

HOWEVER, IF what makes bin Laden wicked is not simply over zealousness or religious convictions generally, but a distinct twisting of good and truth, our response must be altogether different. Encountering distorted forms of the most important things in life — faith, marriage, parenthood, and even political ideals — is no reason to abandon them. On the contrary. It is a reminder of the vital importance of diligently choosing the wisest, truest path, then following it with all of one's heart. May America settle for nothing less. CPR

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Correspondence

(Continued from page 2)

ocrats, and not fellow Republicans, who are the problem, will we succeed.

My comments are not directed to you because you are a conservative. In fact, I, unfortunately, have had to write similar letters to people who consider themselves to be "modeate." The bottom line is not whether a Republican meets a litmus test contrived by one wing of our Party or the other. We will be losers in this state as long as we believe adherence to that ideology (whether conservative or moderate) is more important than winning.

Sincerely,
The Lincoln Club of
Northern California
Duf Sundheim

cc: California state Senator Ray Haynes, Gerald Parsky

November 8, 2001

Mr. Duf Sundheim
The Lincoln Club of
Northern California

Dear Mr. Sundheim,

Thank you for taking time to write, but I wish you would extend some of your amiable flexibility to me. For instance, Ronald Reagan won and he believed adherence to "ideology" (your substitute word, apparently, for principle) more important than winning — God knows he had legions advising him to tailor his message in order to win and telling him he'd surely lose otherwise. Even his old friend Pete Hannaford confesses that his first impression of Reagan was that he was a nice man who, sadly, could never be elected to anything — too simple-mindedly obsessed with conservative ideas.

Now it seems to me that if you *really want to win*, you would consider my genuine position, which I don't think is at all unclear in my article, namely: that winning *requires* adherence to principle, especially for Republicans. Argue against that if you please. But to pillory me as foolishly preferring losing to strategic compromise is simply beside the point. By the way, how are we to conclude that Democrats are a problem except by consideration of and adherence to principle?

Sincerely,
John Kurzweil, editor

P.S. I hope you'll reconsider that trial subscription. Intelligent give-and-take of ideas, fostered by *CPR* (as your letter attests), sharpens skills political winners require.

cc: California state Senator Ray Haynes, Gerald Parsky

Of Chavez and Simon

Following up my offering on Cesar Chavez ("Hogwash in Fresno," Correspondence, *CPR*, Sept./Oct. 2001), it is only fair to mention that in response to the public reaction last spring against the Chavez-street-renaming, the issue remains tabled for now. My own package to the Fresno Supervisors and mayor included Mr. Baldwin's *CPR* article ("Farmyard Fraud," by Steve Baldwin, Jan./Feb., 2001) as well as two of my own, in response to which Mayor Autry wrote a friendly thank you, so one hopes he may have altered his earlier views.

Regarding William Simon's inspiring talk to the cadets at West Point, "Does Character Sill Count?" (*CPR*, Sept./Oct. 2001): perhaps the key ingredient lacking in many GOP candidates these days is the full *knowledge* needed for enduring wisdom, since to assure the *summum bonum* requires accurate in-

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Correspondence

formation, or the *truth*.

While, in keeping with his father's contribution to West Point, Mr. Simon's loyalties to that institution are understandable, he seems unaware of current conditions at our once formidable service academies — conditions that deserve our immediate attention and corrective action.

Ironically, while the old motto of "Duty, Honor, Country" in itself instilled the demanding moral sense he calls for, the new ideas of "be all you can be" and "forming leaders of character" have tended to obscure the former tenets. "Leaders of character" would hardly accept or even go to the extent of fudging the facts about "sex-norming," which for more than 15 years has been the policy norm.

Paraphrasing Mr. Simon, "instead of the integral link between private character and the public good (as evidenced by George Washington and others in our history), character has come to be seen as a purely private matter and the public sphere is seen as the arena for competing interests that are morally neutral."

While recognizing the inroads of the '60s, Mr. Simon ignores the fact that they engulfed the academies no less than the civilian sectors, especially the ravages of an entirely ideological and self-centered feminism, in whose grip (*e.g., via* DACOWITS), despite the overwhelming evidence that women do not belong in the armed services except as auxiliaries, the academies are now shackled.

In my opinion, no GOP candidate of substance should tolerate this continued perversion. "Character means living in truth" and "only slaves do not know how to say the word 'no'."

W. Edward Chynoweth
USMA '46
Sanger CPR

Stirling

(Continued from page 19)

long-term residents at below-market rates.

If Lambert wanted to be released from these restrictions, he would have to pay $600,000. For the Fields at the San Remo, the ransom was set at $567,000.

The Field brothers paid the city's demand under protest. Their lawsuit against the city's ordinance was heard by the California Supreme Court on December 6. As for Lambert, he offered to pay $100,000 to get out from under the ordinance, but the city said no. Forced to lease rooms to the homeless if he opens other rooms to tourists, he has chosen to keep many of his rooms vacant, which costs him less than letting them at below-market rates. In all, small hotel owners are keeping more than 5,000 rooms vacant in response to the city's ordinance.

In defense of its policy, the city argues that small hotel owners should bear the cost of helping homeless people who are displaced by renovation.

But this approach is counterproductive. Instead of gladly reaping the benefits of enhanced tourism, higher property and tourist tax revenues, hundreds of new service jobs for city residents, and a reduced need for public safety and other city services, the city is actively discouraging the renovation of aging buildings, and deterring entrepreneurs from adding to the limited stock of moderately-priced tourist accommodations.

While the homeless problem in San Francisco is significant, and city officials' decision to provide housing is laudable, the responsibility of meeting this need should be shared by the public as a whole. It is not fair — or constitutional — to foist the burden primarily onto the entrepreneurs who risked their personal finances to restore the city's small hotels. CPR

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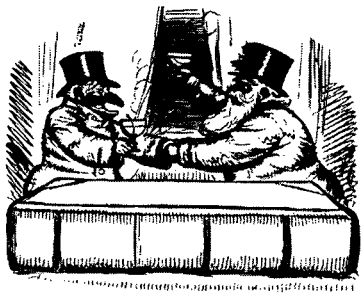

CRITICUS

Sleuthing and Slandering

BY G.B. TENNYSON

And when they had crucified him, they parted his garments, casting lots upon them.

Mark 15:24

THERE IS always something rather comic about literary and academic feuds, especially to outside observers untouched by the matters in question. One thinks of the five-year-old feud between the most recent Nobel prizewinner for literature, V.S. Naipaul, and the upmarket travel writer, Paul Theroux. Naipaul had been a mentor and friend of Theroux's for many years, and, though Naipaul had long been known to be prickly, acerbic, even at times brutally nasty, he evidently hadn't subjected Theroux to any indignities. What started the feud was an apparently unintended slight. Theroux saw a book of his own for sale for £1500 in a catalogue of used books. That would no doubt have been gratifying, but the rub was that the volume in question was one that Theroux had given to Naipaul and Naipaul's first wife Pat, and it included a fond inscription from the author. Indeed, that it was what is called in the trade an "association copy" involving two prominent writers certainly enhanced its value. But the fact that the recipient of the book had decided to unload it deeply offended Theroux. For the non-literary, it would be something like seeing a thoughtfully selected Christmas gift to Aunt Louise pop up the following Christmas as a gift from Aunt Louise to Cousin Natalie.

Theroux fired off an annoyed fax to Naipaul which was answered only by an unsatisfactory fax reply from Naipaul's second wife Nadira. Theroux did the literary equivalent of bad-mouthing Aunt Louise to the rest of the family by writing a book about the relationship titled *Sir Vidia's Shadow.* (Naipaul holds a knighthood and is thus addressed as Sir Vidia, that being his given name.) Theroux called Naipaul "snobbish" and "miserly," and said his former friend "elevated crankishness as the proof of his artistic temperament." And so the feud goes on.

Perhaps better known on this side of the Pond, and somewhat more entertaining, was the feud between

Apart from the elusive video, G.B. Tennyson's chief contribution to Lewis studies is his edition of Owen Barfield on C.S. Lewis. *He has also contributed a Foreword to a forthcoming reissue of Lionel Adey's* C.S. Lewis's "Great War" with Owen Barfield. *That "War," please note, was entirely intellectual.*

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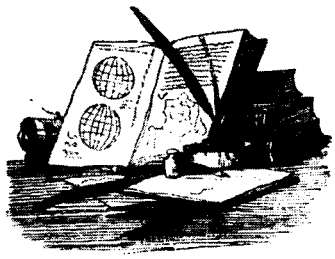
those formidable literary ladies Mary McCarthy and Lillian Hellman. It was the one in which McCarthy seems to have clawed the better when she declared that every word Hellman had ever written was a lie, "and that includes 'and' and 'the.'" From Criticus's standpoint that is close to a statement of fact. But doubtless there are Hellmanians who would strongly dispute it. The two combatants themselves are both now in the literary sparring ring up above — or down below.



There is always something rather comic about literary and academic feuds, especially to outside observers untouched by the matters in question.

WHICH BRINGS us to a literary-academic dispute that is likely to be of greater interest to readers of this journal in that it revolves around an author almost certainly better known and of greater interest to them than any who have been mentioned heretofore. That author is C.S. Lewis. The feud is like no other, for it is not one in which two individuals square off against each other with all the rest of us cheering or jeering as may be from the sidelines. Instead it is a feud that features a fearless and voluble challenger against a mostly silent opponent, but an opponent who has many supporters who periodically take up arms against the challenger, who in turn has a smaller and mostly silent group of supporters. "Deep waters, eh Watson?"

Well, I'll explain, if I can. The dispute is over the authenticity of some posthumously published Lewis works, and over the operation of the C.S. Lewis literary estate and especially the conduct of Lewis's chief editor, Walter Hooper. Now here I must, as they say, declare an interest, indeed two interests. The first is that Walter Hooper is a friend of mine, so that I can hardly be entirely unbiased, though I am trying. The second is that I am one, albeit a very small one, among the many against whom the challenger has railed. That said, on to the feud.

The challenger in question is one Kathryn Lindskoog, a longtime Lewis scholar and enthusiast, not to say sycophant. She discovered Lewis as an undergraduate at the University of Redlands in 1954 when she was Kathryn Stillwell and when another student, named John Lindskoog, introduced her to Lewis's works. She subsequently married Lindskoog but only after writing a thesis about Lewis's *Chronicles of Narnia* that was subsequently published as a book. She met Lewis for tea one afternoon in 1956 in Oxford and was so "giddy with awe" that she didn't wash her hand for two days. Her thesis gained Lewis's approval, and he wrote to her saying "you know my work better than anyone else I've met," a statement that appears repeatedly in Lindskoog's writings and, before she took up sleuthing, functioned something like her signature song. That was in 1957, only eight years after the first book ever on Lewis (by Chad Walsh) had been published and thus well before the flood of Lewis scholarship had begun coursing down the academic spillways, so there was not a great deal of competition.

Evidently Lindskoog never saw Lewis again, but she continued her work on his writings while teaching high school. Sometime in the 1960s, Mrs. Lindskoog became afflicted with multiple sclerosis, which inevitably worsened, so that today she is an invalid who, almost unbelievably, continues to work, lying in bed on her back with a keyboard above her. Her condition, which she frequently mentions, has gained her a good deal of sympathy, and Criticus confesses himself to be astounded at her perseverance. Other, less charitable folk have suggested that her very condition has deranged her and accounts for the extravagance of her claims in the Lewis Wars. Her writing seems to me to be lucid, if often perfervid, but perhaps it is possible to be deranged and still write lucidly. Even so, I doubt that she is clinically deranged, though I should think she is certainly obsessed.

AND IN the other corner stands Walter Hooper, the undisputed master authority on and editor of the works of C.S. Lewis and an employee of the Lewis estate. Except that Hooper for the most part declines to stand in the other corner or to enter the ring, thus leaving Lindskoog

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to seem to be raging Lear-like on a barren heath. Of that more later. Hooper, three years older than Lindskoog (she turned 67 at the end of 2001) was struck by Lewis's writings at about the same time in life as Lindskoog and had written an appreciative letter to him in the same year, 1954, that Lindskoog first discovered Lewis. It was Lindskoog whose one meeting with Lewis, in 1956, preceded Hooper's first meeting by seven years; but it was Hooper who was to become briefly Lewis's secretary in the year in which Lewis died, 1963, and who was to return in 1964 to live in England permanently and to devote his life to writing about Lewis and editing Lewis's works. Hooper has co-authored a biography of Lewis, edited Lewis's letters and journals, produced a video and coffee table book on Lewis, and brought forth numerous editions of previously uncollected essays and unpublished Lewis works, ranging from Lewis's juvenilia to pieces of short fiction to an incomplete novel called *The Dark Tower.* Overall, a staggering achievement.

The challenger, one Kathryn Lindskoog, met Lewis for tea one afternoon in 1956 in Oxford and was so 'giddy with awe' she didn't wash her hand for two days.

Such is the capsule background of the two principals in the feud. Where, then, is the problem? Well, many of the works that Hooper has published were works that he claims he retrieved from a three-day bonfire in 1964 to which Lewis's brother Warren, known as Warnie (who survived him by ten years), had consigned them or intended to consign them but let Hooper have if he wanted them. The problem is, according to Lindskoog, that the bonfire never happened. It was, she believes, concocted by Hooper and revealed only after Warren Lewis was dead. This, she further believes, was designed to cover a series of forgeries by Hooper that he has published as works by C.S. Lewis, the chief example being *The Dark Tower.* Lindskoog came to this realization some ten years after the death of Warren Lewis and first reported on it in print in a 1978 article in the journal *Christianity and Literature.* And she came to it, it seems, by, first, a kind of intuition that gradually became a certainty that *The Dark Tower* could not be by C.S. Lewis, nor could several other Lewis works published by Hooper after Lewis's death. Why this insight? Because Kathryn Lindskoog, who, we must always remember, knows Lewis's work better than anyone else, believes it doesn't *read* like C.S. Lewis, doesn't *sound* like Lewis, doesn't *feel* like Lewis; therefore it cannot be by Lewis. It is upon this subjective conclusion that hangs all of Lindskoog's Law and Prophets.

Just as her life had been changed in 1954 with the discovery of Lewis's writings, so Lindskoog's career as a Lewis scholar was profoundly changed by her conviction and public declaration that many of the posthumously-published Lewis writings edited by Walter Hooper were Hooper forgeries. She has been dining out, so to speak, on her charges ever since. For a decade after the journal article, Lindskoog explored the implications of her charges by endless correspondence and investigations, and in 1988 came a little book titled *The C.S. Lewis Hoax,* published by an Evangelical press in Portland, Oregon. Owen Barfield once said to me that all authors, including himself, are always writing the same book over and over. I doubt that that is true; certainly it was not true of Barfield himself. But it is close to the mark as regards Kathryn Lindskoog. For, in 1994 from the same publisher she came out with *Light in the Shadowlands,* which is an expanded version of the *Hoax* book. (This was for a time withdrawn from circulation because of a libel suit brought by Stanley Mattson of the C.S. Lewis Foundation.) In 2001 she brought forth another expansion of the *Hoax* and *Light* books, *Sleuthing C.S. Lewis: More Light in the Shadowlands,* from the Mercer University Press, a Baptist institution in Macon, Georgia.

Although each successive version adds material from Lindskoog's ongoing investigations (from 175 to 416 pages in three painful volumes), including new enemies and miscreants, the burden of it all is the same: Walter Hooper is a forger who has forged all or parts of about a dozen Lewis works, and he is in sinister league with the secret and shadowy owners of the

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C.S. Lewis estate. To be sure, this notion has been expanded, bedizened, and festooned with all manner of supposedly supporting material, including dodgy computer analyses, ink dating, exposures of inconsistencies in the writings and statements of all who counter her in any way, bizarre digressions on other forgeries, suppositions and guesses about what may have gone on, interviews and/or written statements from sources that support her or seem to, and insinuations both bold and sly about her various nemeses, sometimes introduced with such unscholarly statements as "rumor has it." Shame.

Lindskoog has invented a Hamlet of her own and rewritten the plot into the bargain so that it more resembles *Othello.*

Meantime, back at the Lewis Ranch in Oxford, Walter Hooper long since stopped countering the charges or explaining, leaving Lindskoog's *Hamlet* a play without the prince. That may be part of the reason that, absent exchanges with Hooper himself, Lindskoog has invented a Hamlet of her own and rewritten the plot into the bargain so that it more resembles *Othello.* Hooper has said in the past such things as that it is impossible to reply to Lindskoog's charges because any answer only provokes more questions and that "the lady" ought to look at the holograph manuscript of *The Dark Tower,* which is on deposit in the Bodleian Library. She counters with the argument that her condition prevents her from seeing it (sadly true) and that Hooper is such a good forger that one wouldn't be able to tell whether it was forged if one did look at it, so she needn't bother anyway. Well, that takes care of that. Little wonder that Hooper's only recent statement, made after the publication of *Sleuthing,* is "There are no forgeries."

Some questions that come to mind to those not involved or, if so, only peripherally like Criticus, are: "If Hooper made up the bonfire story, what was his motive? Why not say simply that Warren Lewis gave him the papers? Beyond that, what was or is Hooper's motive for forging anything as if by Lewis? The dozen or so allegedly forged items have not increased critical esteem for Lewis, since most readers, including Criticus, think *The Dark Tower* to be inferior work anyway, and the other items are trifling bits amidst the vast body of writing that Lewis left." A possible reply would be the profit motive, which is one reason that the C.S. Lewis estate has also long been in Lindskoog's sights. If that fails to convince, as I think I can show, there would be the fallback position that Hooper is a case of what Coleridge called "motiveless malignity," an Iago on the loose on Lewis studies.

As to the profit motive, Lindskoog has spent years tracking down the ownership of the C.S. Lewis estate, firing off letters to holding companies in places like Singapore, sniffing out trusts in the Channel Islands, Liechtenstein, and the Republic of Ireland, and making it all sound frightfully ominous. At last in the latest version of her book, she announces triumphantly what has been at least inferentially obvious for years to anyone who cares: the true owners of what is now called officially C.S. Lewis, Pte. Ltd. (Private Trade Entity, Limited) are Lewis's stepsons, Douglas and David Gresham, who were the beneficiaries of his will. Why this should surprise or dismay anyone is hard to fathom, considering that the terms of Lewis's will have been known since the time of his death. Simply put, they were that his brother Warren would have a lifetime benefit of the estate, that upon Warren's death the Lewis house, the Kilns, would go to Maureen Moore and the income from the estate would go jointly to the sons of Joy Davidman Gresham Lewis, the wife who had predeceased him. That these Lewis stepsons should seek through tax shelters and holding companies or whatever to guard and maximize their inheritance, which is an enormous one, estimated to have generated $100 million in the years since Lewis's death, is simply the way of the world. That is what rich people do and why they are different from me and thee, namely, as the one novelist said to the other, they have more money.

Money as such, however, is probably not the chief motive for the relentless pursuit of who owns C.S.

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Lewis. Rather, it is an aspect of a subtext that runs through the entire sleuthing brouhaha. That is, who owns C.S. Lewis spiritually and intellectually? Who is his rightful heir? Walter Hooper, the Anglican priest turned Roman Catholic? Or the crusading, bedridden Protestant, Kathryn Lindskoog? In short, it's about turf wars and turf wars as colored by religion. Our old friend *odium theologicum* is rearing his head. Lindskoog is a kind of one-woman Evangelical Taliban against the corrupt Great Satan, C.S. Lewis, Pte. Ltd. and its cohorts. And don't tell me Islam is a peaceful religion.

Hooper has said in the past that 'the lady' ought to look at the holograph manuscript of *The Dark Tower,* which is on deposit in the Bodleian Library.

YES, CRITICUS is falling into some heavy-handed humor here, but as I said at the outset, literary-academic feuds always have something comic about them. And I have left out much that adds to the rich mix of this generation-long controversy. Such things as Warnie's alcoholism, with monumental drinking bouts in Ireland from which he had to be rescued by nuns, by his brother, and later by Walter Hooper; the below-stairs testimony of Lewis's servants about things like the bonfire and the domineering conduct of Joy Lewis; the exact dates of Walter Hooper's visits to the Kilns or for that matter the exact dates of anything Walter Hooper ever did; the likely sexual nature of Lewis's relationship with Mrs. Moore (first asserted categorically by A.N. Wilson, now claimed by Lindskoog as her revelation); and indeed the question of Lewis's sexual relations with Joy, which has sparked a mini-feud between Douglas Gresham and other Lewisians. And so on *ad infinitum.*

Enough. I must spare the reader overkill. So I reserve my final remarks for two intriguing lacunae in Lindskoog's account of her sleuthing career and one minor correction, the one involving Criticus himself. The gaps in Lindskoog's account are revealing. In 1990 there was an article in the alumni magazine of Westmont College in Montecito (next to Santa Barbara) that took issue with Lindskoog's hoax theory. Of course she fired off a long letter and a series of corrections, all of which are provided for the reader in one of thirteen (!) appendices to *Sleuthing.*

What is missing, alas, is the information that in 1990 Lindskoog actually sued Westmont for libel and damages of $3 million, claiming among other things that the article worsened her health. The suit was thrown out. She appealed. In November 1992 the suit was again dismissed and this time with prejudice. That means that it could not be filed again. Oddly, given her love of extensive documentation, Lindskoog does not report on the legal battle at all. (In another context, later on, Lindskoog twice mistakenly writes "Montecito" for what I suspect is Mendocino. Surely such a friend of Westmont, as she describes herself, knows that Montecito is not 200 miles north of San Francisco. Like Criticus and Homer, sometimes even good Lindskoog nods.)

Another battle awaited her, although not a legal one. It was an exchange between Lindskoog and Lewis scholar Michael Logsdon in the pages of a little publication he created called *The Salinas Valley Lewisian.* One of the Lewis pieces that Lindskoog said was a forgery was an essay titled "Modern Man and His Categories of Thought" that had, according to Hooper, been requested by the World Council of Churches in 1946 (Hooper was fifteen at the time) but existed only in typescript until Hooper published it in *Present Concerns* in 1986. Logsdon wrote to the World Council of Churches asking whether such an essay had ever been requested by the Council.

Lo, the answer was yes, and furthermore the Council had a copy in its archives, which Logsdon was able to examine. He found that it corresponded, with only minor editorial changes, exactly to the text that Hooper had published. Lindskoog remained unmoved and so did her continued listing of the essay as a forgery six years later in *Sleuthing.* Her dismissive and self-serving account in that book of her exchanges with Logsdon omits almost all specifics, and the issue of the "Modern Man" essay has gone down the mem-

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ory hole to join the legal case.

Then there is the quaint bit of Criticus under Lindskoogian scrutiny. Although I do not appear in the index (more nodding?) I do occupy about a page of the 42-page long chapter on *The Dark Tower.* I follow upon a lengthy denunciation of one Timothy Stoen of Montecito/Mendocino, and mention of one Nancy Cole who argues that *The Dark Tower* is genuine, which is perhaps why I am described by Lindskoog as "a new *Dark Tower* defender," a designation I should not give myself. With characteristic hyperbole she depicts me as having "charged with a flourish onto a safe corner of the field, brandishing as his powerful weapon; [*sic* to the semicolon] a videotape he had made in England." I don't know why appearing at a meeting of the Southern California C.S. Lewis Society is "charg[ing] with a flourish." I just rambled on over to Pasadena in my motor car. I suppose the sponsoring organization can be called a "safe field" in that most members may be more Hooperite than Lindskoogian, but I don't know what an unsafe field would be unless I ventured to Orange County to present myself in person to the Sleuth.

Perhaps it was inevitable, given the reverence that Lewis evoked in so many, that there would be a revision, and that many would want to see a Lewis, warts and all.

THE ACCOUNT Lindskoog gives of the video is reasonably accurate, especially considering that she wasn't there and hasn't seen it. It is an interview with Owen Barfield and Walter Hooper on the forgery charges, and they reject them, as might be expected. Michael Logsdon reported that the video puts the whole matter to rest, a surprisingly hopeful assertion from one who had been in the hoax snakepit with Lindskoog for the previous few years and should have known that the matter will never be at rest with her. Lindskoog concludes that I must be "nervous" about the video "because that was the last anyone saw or heard of [it]. He chose not to sell, rent, or loan out copies; and when I courteously inquired, he did not answer."

Well, Constant Readers, I will confide the truth to you here. The video is actually a rough-cut *pastiche* of video moments extracted (I can hardly call it edited) from longer footage, and it exists in one unique copy. At the time, Barfield was still alive, and I thought he and Walter Hooper should approve it before I duplicated and distributed it. In the event neither one has ever seen it, not least because it can only be played on an American, not a British, video player. Beyond that, for wider distribution I must have it properly edited and prepared and I simply have not got to it. If I ever do, I shall notify the world, or at least Lewisians, and word will surely reach even darkest Orange County. In the meantime — hint, hint — anyone can order from me my professional, prize-winning video *Owen Barfield: Man and Meaning.* The Lewis connection figures in it, but there are no forgeries.

Despite all the levity of the foregoing there is one final, not at all happy note to strike. However well-intentioned Lindskoog's sleuthing and feuding may be, out of all this C.S. Lewis emerges as neither a Protestant nor a Catholic saint, indeed not a saint at all. He doesn't survive either as the gentle, otherworldly Oxford don of the Anthony Hopkins film incarnation or the bluff, "bonny fighter" that most Oxonians saw him as. The squabbling over papers, the preoccupation with his alleged sado-masochistic tendencies, the concern with his sex life, the slamming of his friends — all these things leave a bad taste. Perhaps it was inevitable, given the extreme reverence that Lewis, through his writings, evoked in so many, that there would be a revision, and that many would want to see a Lewis warts and all. I wonder, however, whether Kathryn Lindskoog when she began sleuthing could have foreseen that she would, even if only by accident, contribute to diminishing the person C.S. Lewis. Who knows, Lewis may not mind. Now that he is out of the Shadowlands, he may be saying to Lindskoog and others what V.S. Naipaul said to Paul Theroux the one time they met by chance on a London street after the feud began: "Take it on the chin and move on." CPR

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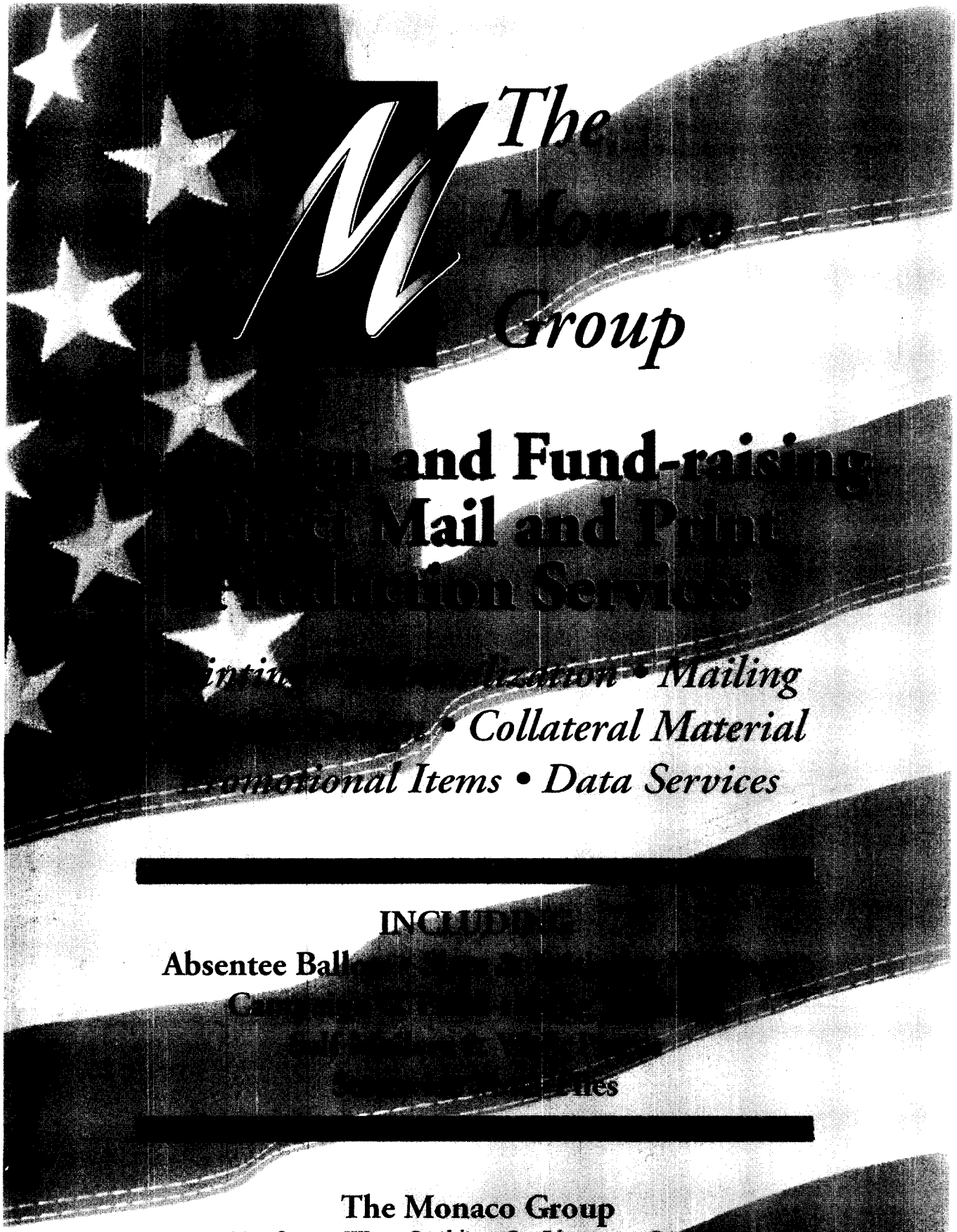

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